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NEW MEXICO
STATE SCHOOL OF MINES
MISCELLANEOUS SERIES

BULLETIN I.

MINING STATUTES
OF
NEW MEXICO
AND OF THE
UNITED STATES, ETC.

BY FAYETTE A. JONES



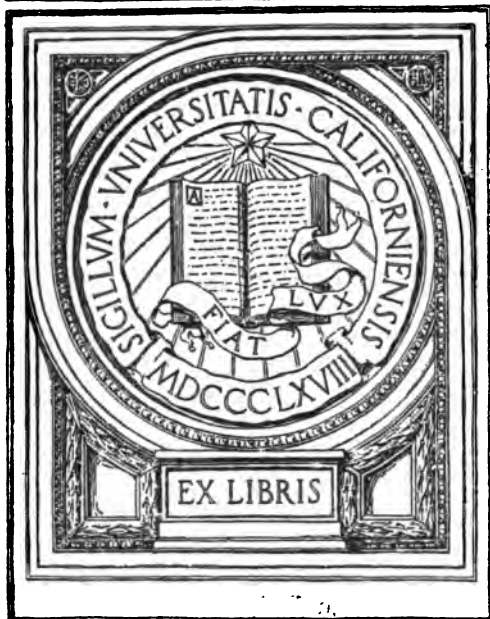
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1916

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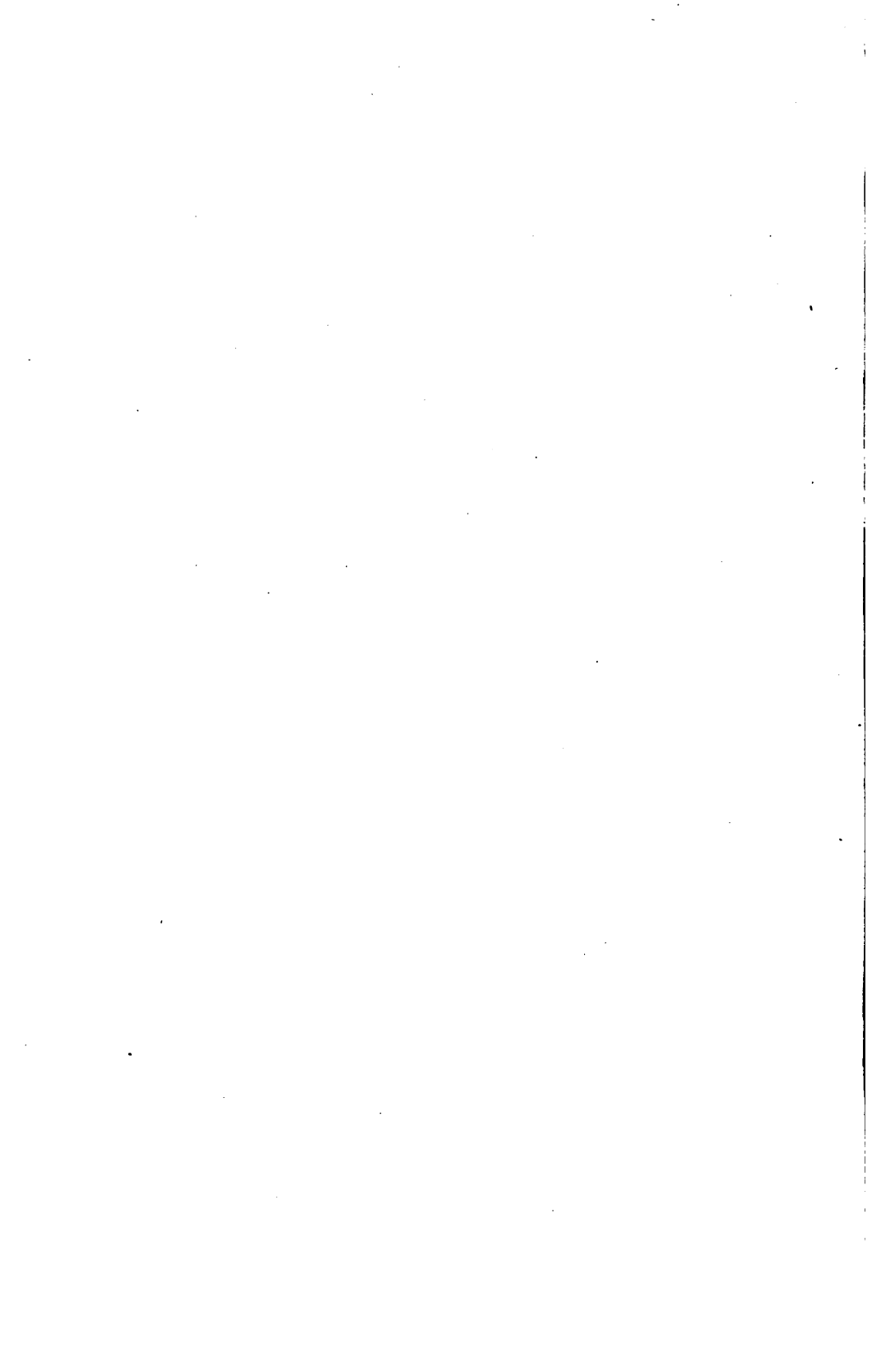
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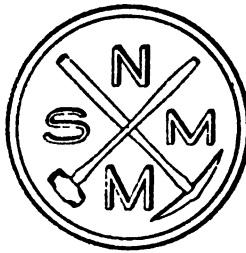


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BULLETIN 1.

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Mexico State School of Mines.*

THE STATE
OF NEW MEXICO

LETTER OF TRANSMITTAL.

To His Excellency:

WILLIAM C. McDONALD, Governor,
Santa Fe, Ne Mexico.

DEAR SIR:

On behalf of the Board of Regents of the New Mexico State School of Mines, I have the honor in submitting to the people of the State, through you as Governor, a codification of the Mining Statutes of New Mexico and of the United States, etc., which I believe will be of value to those interested in locating and acquiring title to mineral lands of the commonwealth, and for other purposes.

With greatest esteem, I beg to remain,

Yours very truly,
FAYETTE A. JONES,
President, State School of Mines.

Socorro, New Mexico.
March 7, 1916.

PREFACE.

The development of the mineral resources of New Mexico is now being accelerated at a rapid rate, due to the high prices and demand for the various metals. The present demand is due to two factors, viz.:

The European War, and

Our own internal development.

At this writing, the present high prices will likely be maintained for some time to come—even after the end of the war in Europe.

Activity in every phase of the mining industry is at high water mark. The chemical, mineralogical and metallurgical laboratories at the School of Mines are flooded with ores and enquiries, as never before in the history of the state. Naturally, increased burdens have fallen upon the School and the institution is seriously handicapped for additional help and lack of funds to meet this extraordinary demand, so essential in the development of the mineral resources of the state.

Due to these extraordinary conditions there has arisen a very great demand for copies of the State Mining Laws and of the Revised Mining Statutes of the United States. The School of Mines being the only official State Bureau of the mining industry, it is but natural that the School be called upon to furnish copies of the mining laws of New Mexico and of the United States.

To meet this demand the School of Mines has carefully prepared this codification in order that the layman may know better how to proceed in locating and acquiring title to mineral lands, and otherwise comply with the State and Federal regulations governing the various phases and rights in mining.

The mining sections of the New Mexico Statutes, herein set forth, conform with the new codification of 1915. The arrangement of the Federal laws were chiefly fashioned after the "United States Mining Statutes Annotated" from the two volumes issued under the supervision of Mr. J. W. Thompson of the U. S. Bureau of Mines.

FAYETTE A. JONES.

Socorro, New Mexico.

March 1, 1916.

**MINING STATUTES
OF NEW MEXICO**

MINING STATUTES OF NEW MEXICO

MINES.

Article

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ARTICLE I. LOCATION—ANNUAL LABOR—ABANDONMENT.

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§3445. LOCATION—MARKING—NOTICE—RECORDING.

SECTION 1. Any person or persons desiring to locate a mining claim upon a vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper or other valuable deposit, must distinctly mark the location on the ground so that its boundaries may be readily traced, and post in some conspicuous place on such location, a notice in writing stating thereon the name or names of the locator or locators, his or their intention to locate the mining claim, giving a description thereof by reference to some natural object or permanent monument as will identify the claims; and also within three months after posting such notice, cause to be recorded a copy thereof in the office of the clerk of the county in which the notice is posted. *And provided*, no other record of such notice shall be necessary.

§3446. Id.—RECORDING—FEES.

SEC. 2. In order to carry out the intent of the preceding section, it is hereby made the duty of the county clerk of the several counties of this State, and they are hereby required to provide at the expense of their respective counties such book or books as may be necessary and suitable in which to enter the record hereinbefore provided for. The fees for recording such notices shall be ten cents for every one hundred words.

§3447. LOCATION—DISCOVERY SHAFT.

SEC. 3. That the locator or locators of any mining claim, located after this act shall take effect, shall, within ninety days from the date of taking possession of the same, sink a discovery shaft upon such claim, to a depth of at least ten feet from the lowest part of the rim of such shaft at the surface, exposing mineral in place, or shall drive a tunnel, adit, or open cut upon such claim, to at least ten feet below the surface, exposing mineral in place.

§3448. Id.—MARKING BOUNDARIES.

SEC. 4. The surface boundaries of mining claims hereafter located shall be marked by four substantial posts or monuments, one at each corner of such claim, so as to distinctly mark the claim on the ground, so that its boundaries can be readily traced, and shall otherwise conform to section 3445.

§3449. RELOCATION—DISCOVERY SHAFT.

SEC. 5. The relocation of any mining ground, which is subject to relocation, shall be made in the same way as an original location is required by law to be made, except the relocater may either sink a new shaft upon the ground relocated to the depth of at least ten feet from the lowest part of the rim of such shaft at the surface, exposing mineral in place, or drive a new tunnel, adit, or open cut upon such ground, at least ten feet below the surface, exposing mineral in place, or the relocater may sink the original discovery shaft ten feet deeper than it is at the time of relocation, or drive the original tunnel, adit, or open cut upon such claim, ten feet further.

§3450. AMENDED LOCATION NOTICE.

SEC. 6. If at any time the owner of any mining claim heretofore or hereafter located, or his assigns, shall apprehend that the original notice of location is defective, erroneous or the requirement of law has not been complied with before filing; or

shall be desirous of changing his surface boundaries or to take in any part of an overlapping claim which has been abandoned, such owner may file in the office where notices of location are by law required to be filed, an amended or additional notice of location, subject to the provisions of this article. *Provided*, That such additional or amended notice of location does not interfere with the existing rights of others at the time of filing such notice; and no such amended or additional location, or record thereof, shall preclude the claimant or his assigns from proving any such title as he or they may have held under the previous location

§3451. REMOVING LOCATION NOTICE OR MONUMENT—PENALTY.

SEC. 7. Any person who shall take down, remove, alter or destroy any stake, post, monument or notice of location upon any mining claim without the consent of the owner or owners thereof, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

§3452. Id.

SEC. 8. Any person or persons, or the manager, officer, agent or employe of any person, firm, corporation or association, who shall in any manner alter, deface or change the location notice of any mining claim in this State, located under the laws of the United States and of this State, or any local regulations in force in the district wherein such claim is situated, thereby in any manner affecting the rights of any person, firm or corporation, to such claim or location, or the land covered thereby, shall be deemed guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction, shall be fined in a sum not less than one hundred dollars, nor more than five hundred dollars, or imprisonment in the county jail for not less than sixty days, nor more than one year, or by both such fine and imprisonment, in the discretion of the court trying the case. Nothing herein contained shall affect the rights of such locator or locators, and his or their assigns, to correct errors in such notice and file amended location notices as provided in section 3450, and the laws of the United States: *Provided*, Such change shall not affect or change the date of such location notice, or affect the rights of any other person.

§8453. ANNUAL LABOR—LIEN HOLDER MAY PERFORM.

SEC. 9. When the owner or owners of any mining claim or claims now located or which may hereafter be located, upon which there shall exist any mortgage, miner's or mechanic's lien, or other encumbrance of any kind which may be hereafter made or incurred, shall refuse, neglect or fail, up to the first day of December of any year, to perform thereon the annual labor or make thereon the annual expenditure required by law to be made in order to prevent the same from becoming open to relocation, in such case the holder or owner of such mortgage, lien or encumbrance, may, upon the first day of December of such year or any time thereafter, before any such mining claim or claims shall have been relocated, enter with his or their workmen and employes upon the same and perform, or cause to be performed, the one hundred dollars' worth of labor or make the one hundred dollars' worth of improvements upon such claim or claims as by law required to be done or made each year in order to prevent such claim or claims from becoming open to relocation; that such work shall be done and improvements made in a workmanlike manner; that for the purpose of performing or causing to be performed such labor and improvements, the holder or holders of such mortgage, miner's or mechanic's lien, or other encumbrance, shall be considered the agent or agents of the owner or owners of such mining claim or claims; that the owner or owners of such mining claim or claims, or any other person or persons, shall not in any manner prevent, obstruct, hinder or delay the performance of any labor or the making of such improvements and may be restrained from so doing by injunction; that upon the completion of the one hundred dollars' worth of labor or improvements by the holder or holders of any mortgage, miner's or mechanic's lien or other encumbrance as aforesaid, upon any mining claim, as herein provided, all sum or sums of money expended by him or them shall be and become a lien upon the said mining claim or claims and from the date of the completion of the same, draw the same rate of interest as the principal sum of such mortgage, miner's or mechanic's lien, or other encumbrance, and may be foreclosed according to law.

§8454. Id.—OBSTRUCTING.

SEC. 10. Any person or persons who shall prevent, obstruct, hinder or delay the performance of the labor or the making of the improvements mentioned in the last preceding section, shall be deemed guilty of a misdemeanor, and upon conviction, shall

be punished by a fine of not less than one hundred dollars or over five hundred dollars, or by imprisonment for a period of not less than six months, nor more than one year, or by both fine and imprisonment.

§3455. ASSESSMENT WORK ON CLAIM IN LITIGATION—HOW DONE.

SEC. 11. Hereafter in any suit or action pending in any of the courts of this State, involving the right to the possession or title of any lode or placer mining claim located under the mining laws, and upon which it is necessary to do the annual assessment work to prevent the same from becoming forfeited and subject to relocation, the party or parties to any such suit out of possession, under petition to the court in which suit or action is pending, showing that such annual assessment work has not been done on or before the first day of November in the year during which such work is required to be done, shall be entitled to an order as of course in such suit or action, permitting such party or parties to enter in and upon such mine or mining claims, with their agents and laborers, and to do and perform such annual assessment work to prevent the said mining claim or claims, from becoming subject to relocation; *Provided*, That in the doing of such work, no ore shall be removed from the boundaries of such mining claim.

§3456. ASSESSMENT WORK ON CLAIM IN LITIGATION—EFFECT.

SEC. 12. Upon the doing of any assessment work, as provided in section 3455, the said mining claim or claims shall not be subject to re-location for failure to do the annual assessment work, as against any of the parties to such suit or action.

§3457. PROOF OF LABOR.

SEC. 13. The owner or owners of any unpatented mining claim in this State, located under the laws of the United States, shall within sixty days from and after the time within which the assessment work required by law to be done upon such claim should have been done and performed, cause to be filed with the clerk of the county in which such mining claim is situated, an affidavit setting forth the time when such work was done, and the amount, character and actual cost thereof, together with the name or names of the person or persons who performed such work; and such affidavit, when made and filed as herein provided, shall be prima facie evidence of the facts therein stated.

The failure to make and file such affidavit as herein provided shall, in any contest, suit or proceedings touching the title to such claim, throw the burden of proof upon the owner or owners of such claim to show that such work has been done according to law.

§3458. ABANDONMENT.

SEC. 14. In addition to the provision of law now in force in respect to the abandonment of mining claims, they may be abandoned in the following manner: The owner or owners of any mining claim, wishing to abandon the same, may sign and acknowledge in the same manner provided by law for the acknowledgment of deeds, and file for record in the office of the county clerk, a certificate describing the same, stating when and by whom located, the name of the claim, the book and page where the notice of location of such claim is recorded; that he or they give up and abandon such claim, and that the same is open and subject to relocation. Upon the filing of such certificate, the mining claim therein described shall be considered abandoned and open to relocation as if the same had never been located, and the owner or owners thereof forever estopped from claiming any right or interest therein under the location mentioned in said certificate: *Provided*, That this provision for abandonment shall not apply to any claim or location upon which any mortgage, lien or other encumbrance exists.

§3459. PLACER CLAIMS—HOW LOCATED.

SEC. 15. All public lands in the State of New Mexico chiefly valuable for the deposits of gypsum, fire-clay, petroleum oil, natural gas, alluvial deposits of gold, and all other material recognized by the laws of the United States as placer material may be located as placer mining claims as hereinafter provided.

§3460. Id.—LOCATION NOTICE—CORNER POSTS.

SEC. 16. The locator or locators shall, at the time of making location of any placer mining claim, cause a notice of such location to be placed at a designated corner of the claim so located, stating the name of the claim, the purpose and the kind of material for which such claim is located, the name or names of the persons locating same; and, if located upon surveyed lands, such notice shall contain a description of such claim by its legal subdivision; if upon unsurveyed lands, such notice shall contain a description of such claim by metes and bounds, with reference to some known object or monument. And whether upon surveyed

or unsurveyed lands each corner of such claim shall be marked by a wooden post at least four feet high, securely set in the ground, or by a substantial stone monument.

§3461. Id.—LOCATION NOTICE—RECORDING—DISCOVERY—PROSPECTING FOR OIL AND GAS.

SEC. 17. A duplicate of such location notice shall be filed and recorded in the office of the county clerk of the county wherein the land located is situate, within ninety days after such location is made and such notice placed on the claim as aforesaid; and, prior to filing said notice, the locator or locators must have a bona fide discovery of the mineral or material claimed in said notice or said location will be void and subject to re-location by another person or persons: *Provided, however,* That in cases where lands have been located for petroleum oil or natural gas, the locator or locators shall have the time from the date of the location to the end of the calendar year succeeding that in which the location is made, to make a discovery of petroleum oil or gas; *Provided, further,* That when lands have been located for petroleum oil or natural gas, or both, the locator or locators thereof shall have the right to the exclusive possession and occupancy of the lands embraced in said location for the purpose of prospecting for petroleum oil or natural gas, during the period of time provided in this section for making discovery of petroleum oil or natural gas or both.

§3462. Id.—SIZE.

SEC. 18. The size of the claim or claims to be located under section 3459 to 3461, and the amount of annual assessment work to be done thereon in order to hold possession of and secure patent to the same, shall be the same as provided by Revised Statutes of the United States.

ARTICLE II. ACTIONS—CONTESTS—POSSESSION.

Section

- 3463 Ejectment for recovery of mining claims.
- 3464 Contested claims—ejectment—possession immaterial.
- 3465 Id.—special verdict of findings—effect of pendency of suit.
- 3466 Id.—working mine during pendency—waste.
- 3467 Id.—measurements and surveys—right of entry.
- 3468 Id.—who may enter.
- 3469 Id.—notice of desire to enter.
- 3470 Id.—refusing entry effect—remedy.
- 3471 Id.—admissibility of evidence.
- 3472 Right of entry by stockholder.
- 3473 Id.—penalty for refusal.

3474 Id.—who are stockholders.

3475 Persons in possession—injunctions against trespass.

§3463. EJECTMENT FOR RECOVERY OF MINING CLAIMS.

SEC. 20. An action of ejectment will lie for the recovery of the possession of a mining claim, as well as also of any real estate, where the party suing has been wrongfully ousted from the possession thereof, and the possession wrongfully detained.

§3464. CONTESTED CLAIMS—EJECTMENT — POSSESSION IMMATERIAL.

SEC. 21. That when an application is made for a patent to a mine or mining claim under the laws of the United States by any person or persons, company or corporation claiming to own or have an interest therein, and such application is contested by any other person, persons, company or corporation in the Land Office of the United States, such person, persons, company or corporation may bring a suit of ejectment in the district court of the county in which the mine or mining claim is situated, for the recovery of the same, whether in or out of possession of such mine or claim, and the question as to who was in possession of the mine or claim at the time when the application was made for patent, or when the suit was begun, shall not be considered by the court, except as it may be necessary in determining the interests of the respective claimants, and their right to the possession of the mine or claim at the time when the application was made for patent, or when the suit was begun, shall not be considered by the court, except as it may be necessary in determining the interests of the respective claimants, and their right to the possession of said mine or claim.

§3465. Id. — SPECIAL VERDICT OR FINDINGS — EFFECT OF PENDENCY OF SUIT.

SEC. 22. The court, in an action for the recovery of a mine or mining claim where a patent is applied for, and the contest is pending in the land office of the United States, may, upon motion of either party to the suit, require the jury to return a special verdict, if tried by a jury; if not, then by a judge trying the same shall make a special finding as to the particular interest each party owns in the mine or claim in dispute, under and by virtue of the mining laws of the United States, which special verdict or finding shall be entered into the judgment and upon

the record of the court trying the same: *Provided, however,* There shall be no special verdict by the court or jury, except where the evidence shows both parties to the suit to have a bona fide interest in the mine or claim sued for: And, *provided further,* That no third person who may have entered upon such mining claim or any part thereof, for the purpose of locating or claiming the same before or during such litigation in the district court growing out of any contest in any United States land office in this state, shall acquire any interest either at law or in equity in the claim or any part thereof in dispute, and shall be deemed and declared a trespasser or trespassers, unless he or they have been, or may, during the pendency of such litigation in the district court resulting from such contest in the United States land office, by a proper application to the court, be made party or parties to such suit adverse to either of such litigants, or both, or shall have taken such legal steps to assert his or their claim in a court of competent jurisdiction within six months after the commencement of such contest in the United States land office.

§3466. Id.—WORKING MINE DURING PENDENCY—WASTE.

SEC. 23. That nothing in the two preceding sections shall prohibit the working and development of a mine or mining claim by either party in interest who may be in possession of the mine or claim during the pendency of the suit, nor prohibit any one from bringing action for damages, or a suit in equity to prevent waste.

§3467. Id.—MEASUREMENTS AND SURVEYS—RIGHT OF ENTRY.

SEC. 24. In all actions at law, or suits in equity, in any of the district courts of this state, wherein the title or right of possession to any mining claim, or ores and minerals is in dispute, any party to such action or suit shall have the right to go upon or enter the workings of said mining claim for the purpose of measuring or surveying the same, either upon the surface or in the workings thereof, peaceably, and without molestation; the costs and expenses of such measurement or survey to be paid by the party for whose use and benefit the same was done.

§3468. Id.—WHO MAY ENTER.

SEC. 25. The right to go upon and enter said mining claim

shall be extended to the party applying therefor, as well as a surveyor and two chain carriers.

§3469. Id.—NOTICE OF DESIRE TO ENTER.

SEC. 26. Before any person may enter upon or go into the workings of such mine without the consent of the person or corporation in possession, he shall give not less than five days' notice in writing to such person in possession, or to his agent or manager, and if the possession is held by a corporation, said notice shall be served upon the president, agent or manager of such corporation, or upon the foreman in charge of the mine, that at a certain date, specified in said notice, he desires to enter upon or go into the workings of said mine, as the case may be, for the purpose of surveying and taking a measurement of the same, in order that he may be able to present the facts on the trial.

§3470. Id.—REFUSING ENTRY—EFFECT—REMEDY.

SEC. 27. If such person or corporation shall not permit any party in interest in such suit or action, to go upon or enter said mine, as contemplated in the preceding sections, after having been notified in the manner designated, the court may, upon proper showing, verified by affidavit, or otherwise, exclude all evidence offered on the trial by the party so refusing, or render judgment or decree in favor of the party giving such notice: *Provided*, That the court may, in its discretion, make an order directing the sheriff to go upon the ground with the party applying for the measurement and survey of such mine, and place the person so applying in possession, for the purpose of measuring and surveying the same, in which case the court may direct the payment of costs as may be just and proper.

§3471. Id.—ADMISSIBILITY OF EVIDENCE.

SEC. 28. The competency, relevancy and effect of such survey and measurement, as evidence, shall be governed by the ordinary rules of evidence in civil cases.

§3472. RIGHT OF ENTRY BY STOCKHOLDER.

SEC. 29. Any person owning stock in any corporation or company owning or operating mines in this State, shall at any time during the business hours of the day, have the right to enter in and upon any and all mines of such corporation or company, and all underground workings connected therewith for the purpose of examining the same.

§3473. Id.—PENALTY FOR REFUSAL.

SEC. 30. Every corporation or company or officer or agent of such corporation or company who shall refuse to allow upon demand, any person owning stock in such corporation or company, to enter such mines, as in the preceding section provided, shall be guilty of a misdemeanor, and the corporation or company shall forfeit and pay to the party injured a penalty of one hundred dollars for every such refusal, and all damages resulting therefrom.

§3474. Id.—WHO ARE STOCKHOLDERS.

SEC. 31. The words "any person owning stock" as used in the preceding sections shall be taken and considered to mean stockholders, whose names appear on the stockbook of the company as owners of stock, and none others.

§3475. PERSONS IN POSSESSION—INJUNCTIONS AGAINST—TRESPASS.

SEC. 32. When any person, firm or corporation shall be lawfully and peaceably in possession of any mining claim in this State, and shall have complied with all the requirements of law and regulations in force in the district in which said mining claim is situated, such persons, firm or corporation shall be deemed to be the rightful possessor of such mining claim, and of the land included therein; and any person or the officer, agent or employe of any corporation who shall by force, intimidation, fraud or stealth, or in the temporary absence of the rightful possessor enter upon such mining claim with intent to hold the same, or any part thereof, against the rightful possessor shall be considered a trespasser, and the judge of the district court for the district in which such claim is situated shall, upon the proper showing of such facts made by affidavit or by oral testimony upon a hearing ordered for that purpose, and upon the filing with the clerk of said district court of a good and sufficient bond, grant an order to show cause why a writ of injunction should not issue, enjoining and restraining such trespasser, his servants, agents and employes, and any person associated with him, from in any manner interfering with the rightful possessor in the possession of such claim until the final disposition of such cause.

ARTICLE III. RECORD OF MILLS AND SMELTERS.**Section**

3476 Ore purchases and receipts—records to be kept.

- 3477 Id.—inspection.
3478 Id.—failure to keep book—liability.
3479 Id.—improperly keeping record.
3480 Purchasing stolen ore.
-

§3476. ORE PURCHASES AND RECEIPTS — RECORD TO BE KEPT.

SEC. 33. That every person, association or corporation that shall be engaged in the business of milling, sampling, concentrating, reducing, shipping or purchasing ores in the State of New Mexico, shall keep and preserve a book in which shall be entered at the time of the delivery of each lot of ore:

First. The name of the party on whose behalf such ore is delivered, as stated.

Second. The name of the teamster, packer or other persons actually delivering such ore, and the name of the owner of the team or pack train delivering such ore.

Third. The weight or amount of each lot of ore.

Fourth. The name and location of the mine or claim from which it shall be stated that the same has been mined or procured.

Fifth. The date of delivery of any and all lots or parcels of ore.

§3477. Id.—INSPECTION.

SEC. 34. Whenever affidavit shall have been made before any justice of the peace or notary public in any county in this state by any person, that ore has been stolen from him, stating as near as may be the amount and value of the ore stolen, such person upon presentation of a certified copy of such affidavit shall have access to such books, and may examine the entries which may have been made therein during a period of twelve months next preceding the filing of such affidavit.

§3478. Id.—FAILURE TO KEEP BOOK—LIABILITY.

SEC. 35. Every person, association or corporation that shall fail or refuse to keep the book required by the terms of section 3476, or shall fail or refuse to make any proper entry therein, or who shall refuse to any person who may be entitled to the same, as provided by the preceding section, the right of inspection thereof, shall forfeit and pay for each and every violation of the provisions of said section, a penalty of not less than fifty, nor more than three hundred dollars, to be collected by action of debt at the suit of any person who may have made the necessary affidavit provided for in the preceding section, to entitle such per-

son to access to such books. In addition to said penalty, any person, association or corporation violating the provisions of the said section shall be liable at the suit of the party or person aggrieved, in the proper form of action, for all damages which may accrue to any party or person by reason of any such violation. And in all actions the fact that a false entry has been made shall be prima facie evidence that the same was made wilfully or knowingly.

§3479. Id.—IMPROPERLY KEEPING RECORD.

SEC. 36. If any person, association or corporation shall fail or neglect to make the inquiries necessary to the making of the proper entries in said book as provided by section 3476, or shall so negligently make entries therein that any lot of ore cannot be particularly identified, or so negligently that it cannot be perceived therefrom what person delivered any lot of ore or received the proceeds of the same when purchased, or shall fail to keep such book or shall wilfully suffer the same to be lost or mislaid, so that the same cannot be produced for inspection, such failure or neglect shall not excuse any party defendant in any suit brought under the preceding section from judgment for any penalties prescribed by said section.

§3480. PURCHASING STOLEN ORE.

SEC. 37. Any person, association or corporation, or the agent of any person, association or corporation who shall knowingly purchase or contract to purchase, or shall make any payment for or on account of any ore which shall have been taken from any mine or claim, by any person or persons who have taken or may be holding possession of any such mine or claim contrary to law, shall be considered as accessory after the fact to the unlawful holding or taking of such mine or claim, and upon conviction shall be subjected to the same punishment to which the principals may be liable.

ARTICLE IV. RIGHTS OF WAY.

Section

- 3481 Right of way for tramway or railway—eminent domain.
- 3482 Id.—Notice of application.
- 3483 Id.—application.
- 3484 Id.—commissioners—qualifications and oath.
- 3485 Id.—commissioners—per diem and mileage.
- 3486 Id.—assessment of damages—hearing—order of court.
- 3487 Id.—ore on right of way.
- 3488 Id.—interference with shafts or tunnels.
- 3489 Id.—procedure.

SECTION 38.—RIGHT OF WAY FOR TRAMWAYS OR RAILWAYS.—HOW OBTAINED.

Sec. 38. The right of way for a tramway or railway shall be obtained by the owner of the land on which it is to be constructed, or by a bill of appropriation passed by the board of supervisors, or by a bill of appropriation passed by the legislature. The owner of the land on which it is to be constructed shall have a right of way for a tramway or railway across lands of other persons by condemnation in conformity with the provisions of this chapter.

SECTION 39.—MANNER OF APPLICATION.

Sec. 39. A bill of appropriation shall be introduced by the applicant at any time and place where bills are introduced in the senate or assembly, and shall be referred to the committee on the subject of the proposed tramway or railway. The applicant shall be required to state in the bill the exact location of the proposed tramway or railway, and the course and width of the ground necessary to be condemned, and the facts showing the necessity for such tramway or railway.

SECTION 40.—MANNER OF APPLICATION.

Sec. 40. The application shall set out the name or title of the applicant or applicants and describe the location of the mine or mines to be worked, and the purpose of the proposed tramway or railway, and a description of the land to be condemned, and the course and width of the ground necessary to be condemned, and the facts showing the necessity for such tramway or railway. The application shall be accompanied by a plan showing the location and location of said mine or mines and the lands over which said tramway or railway shall run and the course and width of the ground necessary to be condemned, and the facts showing the necessity for such tramway or railway.

SECTION 41.—COMMISSIONERS—QUALIFICATIONS AND OATH.

Sec. 41. Upon the presentation of said application to the judge of said court he shall at once order and make the appointment of five commissioners to assess the damages: the commissioners shall be householders of the county wherein the property is situate, and shall make oath upon their appointment, before any official authorized to acknowledge oaths in the State, that each of them is worth the sum of two thousand five hundred dollars over and above all just debts, liabilities and exemptions by law, and said commissioners shall not be of the neighborhood to be worked.

SECTION 42.—COMMISSIONERS—PER DIEM AND MILEAGE.

The commissioners shall each be allowed five dollars for their services. The applicant shall pay in advance

for one day to each commissioner, and such commissioners shall also be allowed mileage at the rate of twelve and one-half cents per mile each way for going to and returning from said place of assessment from their places of residence.

§3486. Id.—ASSESSMENT OF DAMAGES—HEARING — ORDER OF COURT.

SEC. 43. The said commissioners shall view the ground and determine the amount of damages due to each owner or claimants, and assess said damages and report the same in writing to the said judge of said district court; that the said court shall at once examine said report and hear any objections made thereto in writing, sustained by evidence in written affidavits; notice of filing said affidavits must be given to the opposite party with copies of the affidavits ten days before the day of filing the same. If such report of said commissioners be confirmed by the judge and all costs and damages paid by applicants, the judge shall issue an order attested by the clerk of his court, commanding the sheriff of said county to put the applicant in possession of said right of way as shown in said plat, for executing which said sheriff shall be allowed five dollars and his mileage.

§3487. Id.—ORE ON RIGHT OF WAY.

SEC. 44. In grading for said tramway or railway, if any ore is found the applicant shall carefully throw it aside in a separate pile or piles and not mix it with other dirt or debris.

§3488. Id.—INTERFERENCE WITH SHAFTS OR TUNNELS.

SEC. 45. No shaft shall be covered or tunnel intercepted or cut through or on, any mining claim without the consent of the owner thereof: *Provided*, This shall not apply to shafts and tunnels as they exist one month before the filing of the application.

§3489. Id.—PROCEDURE.

SEC. 46. The proceedings provided for in this article shall be as in a court of chancery, except as otherwise provided, and the judge of the district court of the county where such land lies may render his final decree therein in chambers, as well as in term time.

ARTICLE V. COAL MINES.

Section

- 3490 Coal mines—owners to make map.
- 3491 Id.—inspection of map.
- 3492 Coal mines—hoisting machinery.
- 3493 Coal mines—"owner" includes lessee.
- 3494 Id.—failure to comply with law.
- 3495 Id.—negligence of overseer—penalty.
- 3496 Id.—boiler inspection.
- 3497 New coal mines—law does not apply.
- 3498 Id.—scales.
- 3499 Id.—oath of weigher—record.
- 3500 Id.—check—weighman.
- 3501 Id.—using false weights, etc.
- 3502 Id.—offenses.
- 3503 Payment of employes in script prohibited.
- 3504 Exception to preceding section.
- 3505 Coercing employes to trade.
- 3506 Id.—duty of district attorney.
- 3507 Safety provisions—violation.
- 3508 Coal mines—unlawful acts in.
- 3509 Igniting shots.
- 3510 Shot firer—interfering with.
- 3511 Electrical apparatus interfering with.
- 3512 Equipment—interfering with.
- 3513 Setting fire to.

§3490. COAL MINES—OWNERS TO MAKE MAP.

SEC. 47. The owner or agent of every coal mine shall make or cause to be made an accurate map or plan of the workings of such coal mine or mines, on a scale of one hundred feet to the inch.

§3491. Id.—INSPECTION OF MAP.

SEC. 48. A true copy of which map or plan shall be kept at the office of the owner or owners of the mine open to the inspection of all persons, and one copy of such map or plan shall be kept at the mines by the agent or other persons in charge of the mines, open to the inspection of the workmen.

§3492. COAL MINES—HOISTING MACHINERY.

SEC. 49. The overseer shall see that the hoisting machinery is kept constantly in repair, and ready for use to hoist the workmen out of the mine.

§3493. COAL MINES—"OWNER" INCLUDES LESSEE.

SEC. 50. The word, Owner, as used in the first eight sections of this article, shall apply to lessee as well.

§3494. FAILURE TO COMPLY WITH LAW.

SEC. 51. For every injury to person or property occasioned by any violation of this article, or any willful failure to comply

with its provisions, a right of action shall accrue to the person injured for any direct damages he or she may have sustained thereby, before any court of competent jurisdiction.

§3495. Id.—NEGLIGENCE OF OVERSEER—PENALTY.

SEC. 52. For any willful failure or negligence on the part of the overseer of any coal mine, he shall be liable to conviction of a misdemeanor and punished according to law: Provided, That if such willful failure or negligence is the cause of the death of any person, the overseer, upon conviction, shall be deemed guilty of manslaughter.

§3496. Id.—BOILER INSPECTION.

SEC. 53. All boilers used for generating steam in and about the mine shall be kept in good order, and the owner or agent in charge of such mine shall have them inspected by some competent boiler maker as often as once in every three months.

§3497. NEW COAL MINES—LAW DOES NOT APPLY.

SEC. 54. The preceding sections shall not apply to the opening of new coal mines.

§3498. Id.—SCALES.

SEC. 55. That the owner or agent of each coal mine within this State, at which the miners are paid by weight, shall provide at or near such mine suitable scales of standard make for the weighing of all coal mined.

§3499. Id.—OATH OF WEAHER—RECORD.

SEC. 56. The owner or agent of such mine shall require the person authorized to weigh the coal delivered from said mine to be sworn, before some person having authority to administer an oath, to keep the scales correctly balanced; to accurately weigh and to record a correct account of the amount weighed of each miner's car of coal delivered from such mine, and such oath shall be kept conspicuously posted at the place of weighing. The record of the coal mined by each miner shall be kept separate and shall be open to his inspection at all reasonable hours, and also for the inspection of all other persons pecuniarily interested in such mine.

§3500. Id.—CHECK WEIGHMAN.

SEC. 57. In all coal mines in this State the miners employed and working therein may furnish a competent check-weighman, who shall at all proper times have full right of access and exam-

ination of such scales, machinery or apparatus, and seeing all measures and weights of coal mined and accounts kept of the same: Provided, That no more than one person on behalf of the miners collectively shall have such right of access, examination and inspection of scales, measures and accounts at the same time and that such person shall make no unnecessary interference with the use of such scales, machinery or apparatus. The agent of the miners as aforesaid shall, before entering upon his duties make and subscribe to an oath before some officer duly authorized to administer oaths, that he is duly qualified and will faithfully discharge the duties of check-weighman. Such oath shall be kept conspicuously posted at the place of weighing.

§3501. Id.—USING FALSE WEIGHTS, ETC.

SEC. 58. Any person, company or firm having or using any scale or scales for the purpose of weighing the output of coal at mines so arranged or constructed that fraudulent weighing may be done thereby, or who shall knowingly resort to or employ any means whatsoever by reason of which such coal is not correctly weighed or reported in accordance with the provisions of the three preceding sections, or any weighman or checkweighman who shall fraudulently weigh or record the weights of such coal, or receive at or connive at, or consent to such fraudulent weighing shall be deemed guilty of a misdemeanor, and shall upon conviction for each such offense be punished by a fine of not less than two hundred dollars (\$200), nor more than five hundred dollars (\$500), or by imprisonment in the county jail for a period not to exceed sixty days, or by both such fine and imprisonment, proceedings to be instituted in any court of competent jurisdiction.

§3502. Id.—OFFENSES.

SEC. 59. Any person, owner or agent operating a coal mine in this State who shall fail to comply with the provisions of sections 3498 to 3501 inclusive, or who shall obstruct or hinder the carrying out of their requirements shall be fined for the first offense not less than fifty dollars (\$50), nor more than two hundred (\$200) dollars; for the second offense not less than two hundred dollars (\$200), nor more than five hundred dollars (\$500), and for the third offense not less than five hundred dollars (\$500): Provided, That the provisions of said section shall apply only to coal mines whose products are shipped by rail and shall not apply to mines where suitable scales of standard

make furnished by any railroad or transportation company or through which the coal is shipped or used for such weighing.

§8503. PAYMENT OF EMPLOYES IN SCRIPT PROHIBITED.

SEC. 60. It shall be unlawful for any person, firm, company or corporation owning or operating coal or other mines or transacting any kind of general mercantile business in the State of New Mexico, to sell, give, deliver, or in any manner issue directly or indirectly, to any person employed by him or it in payment for wages due for labor or as advances on wages of labor not due, any script, check, draft or order, or evidence of indebtedness payable or redeemable otherwise than in their face value in money; and such person, acting member or agent of any firm, acting agent or agents or officers of any company or corporation firm who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding five hundred dollars, not less than two hundred and fifty dollars, and the amount of any script, token, check, draft, order or other evidence of indebtedness sold, given, delivered or in any manner issued in violation of the provisions of this section shall recover in money at the suit of any holder thereof against the person, firm, company or corporation selling, giving, or delivering or in any manner issuing the same.

§8504. EXCEPTION TO PRECEDING SECTION.

SEC. 61. The provisions of the preceding section shall not apply in any instance where the issuance of scrip, check, draft, or order, is upon the voluntary request or at the instance of the party to whom issued, but only in cases where the employer seeks to compel, coerce, or influence the employe against his will to accept the same.

§8505. COERCING EMPLOYEES TO TRADE.

SEC. 62. Whoever compels or in any manner seeks to compel or coerce an employe or any person, firm, company or corporation to purchase goods or supplies from any particular person, firm, company or corporation shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or imprisonment in the county jail not exceeding sixty days, or both at the discretion of the court.

§3506. Id.—DUTY OF DISTRICT ATTORNEY.

SEC. 63. The district attorney of any county in the State of New Mexico, upon complaint being made to him of the violation of any of the provisions of the three preceding sections in said county shall cause such complaint to be investigated before the grand jury of the county where such wrong has been complained of at its next session following the time such complaint is made.

§3507. SAFETY PROVISIONS—VIOLATION.

SEC. 64. (1) In all coal mines, the owner, lessee, manager or operator shall provide at least two shafts, slopes or other outlets separated by natural strata of not less than fifty feet in breadth, by which shafts, slopes or outlets, distinct means of ingress or egress shall always be available to the employes in said mines; and in no case shall a furnace shaft be deemed an escape shaft.

(2) In all coal mines operated by shafts, a safe and stable stairway shall be provided by the owner, lessee, manager or operator and placed in the second opening or escape shaft, which stairway shall be set at an angle not greater than fifty degrees, shall not be less than two and one-half feet wide in the clear, shall have a substantial hand rail throughout its entire length with stations not more than thirty feet apart, each station having a substantial platform or landing at least three and one-half feet wide and five feet in length; provided, that in no instance shall a ladder way be considered as a compliance with the foregoing requirements.

(3) Reasonable care shall be used by every owner, operator, manager or lessee to provide safety catch or clutch and a good and substantial iron bonnet or overhead cover on every cage, used in lowering or hoisting persons, in every shaft operated in mines in the state.

(4) All machinery or appliances used for transportation of persons in said mines shall be provided with adequate safety appliances and shall be inspected at regular intervals by competent persons for that purpose, appointed by the owner, lessee, operator or manager of the mine.

(5) Every shaft, slope or drift opening used for an escape-way from coal mines, shall be transversed throughout its entire depth or length and regularly and carefully inspected by a competent employe designated by the owner, lessee or operator for that purpose once a week, which said employe shall report upon the condition of such escapeway, and shall make a record of such

inspection, which record shall show the date of each inspection and the condition of the escapeway, inspected, which said record shall at all times be open to the Inspector.

(6) Every operator of any coal mine which shall have attained a distance of one hundred feet in depth of shaft or length of slope, entry or drift from the surface, or from the bottom of the shaft, shall use all reasonable means to provide an adequate amount of ventilation of not less than one hundred cubic feet of pure air per minute for each person at work in said mine and not less than three hundred cubic feet of pure air per minute for each mule, horse or burro used in said mine, and to cause such air to be forced by proper appliances through said mine to the face of each and every working place in such a manner as to render harmless and expel therefrom all dangerous or poisonous gases; and shall use reasonable care at all times to keep all workings in operation in said mine free from standing gas.

(7) At least four safety lamps, four electric hand lamps and four masks or helmets provided with a supply of oxygen or air sufficient to sustain respiration for the user thereof for at least one hour, shall be kept for rescue work by each company or operator at every coal mining camp where twenty-five or more men are employed.

(8) Every fan hereafter erected or constructed at any coal mine must be placed at least twenty feet distant from the side or mouth of the shaft entry or slope with which it is connected for ventilation purposes, and shall be as much as possible of fire proof construction; and explosion doors shall be provided in a direct line with the mine opening.

(9) In each coal mine which vents gas, which, in combination with air, will induce or maintain an explosive condition, it shall be the duty of the operator to keep constantly employed one or more experienced men whose duties it shall be to act as fire bosses, whose duties it shall be to carefully inspect all working places, in said mine by making tests for gas with a safety lamp within three hours before each working shift enters said mine and to make a written record of the conditions in the mine after each examination, in a book to be kept for that purpose; said fire bosses shall mark with chalk on the face of the room his initials and the date and hour of the examination as proof to the miner that his working place has been examined. Any fire boss discovering standing gas in any workings or openings in any coal

mine, shall immediately place a danger sign at the entrance of the place where such standing gas is found and at such distance therefrom as would give timely warning to any person carrying an open light. Said fire boss or gas watchman shall then proceed with and complete his examination of said mine, placing like signs before each working place where standing gas is found; and thereupon shall proceed to take the necessary steps to improve the ventilation and remove standing gas wherever found.

(10) In like manner and within the same time before any working shift enters the mine, the fire boss shall examine all accessible gobs and abandoned workings in said mine which there is reason to believe might accumulate gas in dangerous quantities. Naked lights shall not be used in any ventilating district between the place where safety lamps are necessary to be used and outside opening of the return airway. The owner, operator or manager of every coal mine shall use reasonable care to provide that all brattice cloth used shall be fireproof cloth, and that doors therein shall be made as fireproof as possible by painting with fireproof paint or covering with metal; that rags or other inflammable material shall not be used to stop leaks; that doors must be hung in such a manner as to close automatically; and that all over-casts shall be of stone or other fireproof material.

(11) It shall be the duty of the operator, owner or manager of every coal mine to provide an ample supply of timbers and to cause the same to be delivered on the pit car, at the request of the miners, as near as practicable to the places where the same are to be used. The operator shall not store or knowingly permit to be stored any powder or other explosive in any coal mine, nor knowingly permit to be taken into any coal mine powder or other explosive in a greater quantity than may be required for use in one shift, unless such quantity be less than five pounds, and shall not knowingly permit black powder or powder not in cart-ridge form to be carried into the mine, except in metallic canisters, unless such powder is to be distributed by the shot inspector or used by the shot firer.

(12) The operator shall not knowingly permit to be used for illuminating purposes in any coal mine any oils other than pure animal or vegetable oils or other oils as free from smoke as a pure animal or vegetable oil, provided, however, that any material as free from smoke and bad odor and of equal merit as an illuminant as a pure vegetable oil, may be used.

(13) It shall be the duty of the operator of any mine in the event of a fatal accident occurring therein, to at once make a brief report of the same by telegraph or telephone to the Inspector; and within ten days thereafter it shall be his duty to make and transmit a full and complete report in writing to the Inspector of any such accident. It shall also be the duty of the operator to keep a complete record of all accidents which may occur in the mine operated by him at said mine, to which record the Inspector shall have access.

(14) It shall be the duty of the operator to exercise reasonable care to employ experienced, competent and sober men as shot firers, fire bosses, and engineers in charge of hoisting apparatus or engines, or in charge of explosives.

(15) It shall be the duty of the operator to install and maintain a telephone system in every coal mine to such extent as may be reasonably required for the operation thereof.

(16) It shall be the duty of every operator of any coal mine to supply at least one drag for each rope trip in all inclines and slopes to be attached to the rear end of the hind car, ascending such inclines or slopes, for the purpose of derailing the car in case the rope or couplings should break or any cars become detached.

(17) It shall be the duty of any operator in any coal mine employing twenty or more miners, to employ shot-firers to fire the shots therein, except there (where) some approved mechanical or electric shot firing device is used; said shots to be fired between working shifts, when all miners and other employes, except shot firers and employes doing repair work, shall be out of the mine. When the miners are allowed to load and tamp the holes, the operator shall provide tamping consisting of some incombustible substance, which shall be delivered to points convenient to working places; provided, however, that the provisions of this sub-section shall not apply to anthracite mines which do not generate inflammable gas.

(18) It shall be the duty of the operator of every coal mine where traveling roads are not provided and wherever workmen are compelled to travel the haulage road in the course of their ordinary duties to provide a clear space, two feet in width, on one side of such haulage way or where such clear space is not provided he shall provide refuge holes, six feet in height, four feet in width and three feet in depth, on one or both sides along such haulage ways at intervals of not more than one hundred

feet apart, and said refuge holes shall be kept whitewashed or painted white so as to be easily distinguished from the rib adjacent thereto; said operator shall also maintain similar refuge holes on main slope haulage ways.

(19) When a uniform code of mine bell signals has been arranged by the Mine Inspector, a copy of such code of signals shall be maintained in each hoisting engine house in plain view of the engineer in charge thereof and a similar copy thereof shall be maintained at each level or entry in said mine from which persons or coal are hoisted.

(20) Any operator of any coal mine who shall wilfully fail or refuse to comply with any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than fifty dollars nor more than five hundred dollars, or by imprisonment for not less than one month or more than three months, or by both such fine and imprisonment.

§3508. COAL MINES—UNLAWFUL ACTS IN.

SEC. 65. (1) It shall be unlawful for any miner to enter any mine or part of a mine generating explosive gas until it shall have been examined by the fire boss and by said fire boss reported safe.

(2) It shall be unlawful for any person to brush firedamp from any place in a coal mine by means of a coat, brattice cloth, sack or any article which might be used by a movement of the same with arms or hands.

(3) It shall be unlawful for any person employed in or about any coal mine wherein a traveling way is provided, to travel upon the haulage road where rope or motor haulage is employed; except the track walker or the track repairer or timber men when in the performance of work necessary upon such haulage road, and the Inspector, mine superintendent, pit boss, fire boss or any other officials in the inspection of such roads or other necessary duties. Such haulage road shall not be used for ordinary means of ingress or egress to or from the mine.

(4) It shall be unlawful for any person to tamp any drill hole in any coal mine with slack coal, drill dust or other ordinarily combustible material.

(5) It shall be unlawful for any person other than the trip or rope rider, or his assistant or assistants, in any coal mine, to ride on or between cars, entering or coming out from any mine or on or between the cars being moved within the mine, except in

case of emergency; provided, however, that passengers may be hauled when the engineer or person in charge of the trip has been notified thereof.

(6) It shall be the duty of every coal miner to take down all dangerous coal, slate, rock or other material in his working place, or to make the same safe by proper timbering. It shall be unlawful for any coal miner to work or remain in any unsafe or dangerous place in a coal mine, knowing the same to be such, except for the purpose of remedying such condition, or for any owner or operator to require him so to do.

(7) It shall be unlawful for any person to load or ignite any shot hole in any narrow working, in any coal mine, until such working shall be either undermined, or cut or sheared on one side, to the full depth of the hole to be fired. Narrow workings are hereby defined as entries, room-necks, break-throughs or cross-cuts between entries and rooms, provided, however, that the provisions of this sub-section shall not apply where prospect entries or new openings are being made to determine the practicability of opening a mine; nor shall the same apply to anthracite mines which do not generate inflammable gas.

(8) It shall be unlawful for any person in any mine to wear a pit lamp in his cap or to have an open light within five feet of any place where he is handling loose powder, caps or detonators, or preparing explosive cartridges of any kind.

(9) It shall be the duty of every shot firer in coal mines to inspect all shot holes before igniting any shots or blasts. He shall begin igniting the shots to be fired at such place that he can proceed with the firing in the direction opposite from that which the air is traveling. Whenever in his opinion any of the working places are too dry, dusty or otherwise dangerous, or that the drill holes are improperly placed, or that an overcharge of explosive is used, or that it is improperly tamped, or that the shot hole is in any particular defective, or if in the opinion of the shot firer the exploding of such shot would be a menace to himself or other person within the mine, or would cause undue wreckage of timbers or property, it shall be his duty to condemn such shot or drill hole, and refuse to ignite such shot or allow it to be ignited until such defective conditions are remedied.

(10) Any person violating any of the provisions of this section, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding fifty dollars

or by imprisonment in the county jail not exceeding thirty days or by both such fine and imprisonment.

§3509. IGNITING SHOTS.

SEC. 66. It shall be unlawful for any person other than a regularly employed shot firer to ignite any shot within a coal mine where shot firers are employed, except in rock work entry or development work where it is not deemed necessary to employ regular shot firers, or in case of absence or inability of the shot firer to attend to such duty, in which event some person who is experienced may be appointed by the mine boss to ignite shots. Any person violating any of the provisions hereof, shall, upon conviction, be fined not less than fifty dollars nor more than five hundred dollars, or be punished by imprisonment for not less than thirty days nor more than two years.

§3510. SHOT FIRER—INTERFERING WITH.

SEC. 67. Any person who shall, by violence, abusive language or innuendo, injure, humiliate or embarrass any shot firer because of said shot firer having condemned any shot hole, shall, upon conviction thereof, be punished by a fine of not exceeding one hundred dollars or by imprisonment for not less than thirty days nor more than one year.

§3511. ELECTRICAL APPARATUS—INTERFERING WITH.

SEC. 68. Any person who shall willfully remove, break or destroy any electric light bulb which is installed and in use, or to be used in or about any mine in the State, or shall cut, detach or in any manner interfere with any electric light or electric wire in any such mine without consent of the operator or person in charge shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

§3512. EQUIPMENT—INTERFERING WITH.

SEC. 69. Any person who shall willfully obstruct or do any act that may interfere with the free passage of air through any ventilation circuit, or who shall willfully remove, break, destroy or damage any apparatus or equipment in or about any mine used for ventilation purposes, without consent of the person in charge of said mine, or any person who shall willfully remove, break, destroy, damage or otherwise molest any mine equipment for whatever purpose used in or about any mine, or impede the

operation thereof, without consent of the person in charge of said mine, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment.

§3513. SETTING FIRE TO.

SEC. 70. Any person who shall willfully set on fire or ignite any building equipment or anything whatsoever at or within any mine when any person is present in such mine at the time, shall be deemed guilty of a felony, and upon conviction thereof, shall be imprisoned for not less than five years nor more than twenty-five years, provided, however, that if the life of any person be lost through the ignition or causing to be ignited of any such building, equipment or other thing as in this section provided, the person setting or causing to be set such fire shall be deemed guilty of murder in the first degree, and shall be dealt with according to the law at the time in force prescribing the penalty for such offense.

ARTICLE VI. MISCELLANEOUS.

Section

- 3514 Locations on private lands—rules and regulations.
- 3515 Trespass by live stock.
- 3516 Preventing trespass—notices.
- 3517 Trespass—penalty.
- 3518 Pest house.
- 3519 Termination of lease—notice.
- 3520 Terminating lease without notice—liability.
- 3521 Smelters—lead poisoning of employe—duty of employer.
- 3522 Id.—failure to provide—penalty.

§3514. LOCATIONS ON PRIVATE LANDS—RULES AND REGULATIONS.

SEC. 71. The owner or owners of lands within this State, the title to which has been vested by letters patent from the United States government, may make and file in the office of the county clerk of the county in which such lands are situated, such rules and regulations, not inconsistent with the laws of the United States and of this State, as they may see fit, governing the location and acquisition of mining claims thereon, which rules and regulations when so filed, shall be binding upon all parties, and a copy thereof duly certified by the county clerk shall be received and admitted as evidence in any suit or proceedings relating to such mining claims; such rules and regulations may be changed and supplemented from time to time by other rules and

regulations filed in like manner, providing that such change shall not affect rights acquired prior thereto.

§3515. TRESPASS BY LIVE STOCK.

SEC. 72. The owner of any live stock in this State shall not be liable to the owner or his agent of any mining or mineral claim or millsite for damages done by way of trespass upon the same by said live stock other than for actual damage done to buildings, tents, mining supplies or other personal property situated thereon: Provided, That nothing in this section shall be constructed as abridging or curtailing any of the existing rights of any such owner whenever any such mining or mineral claim or millsite may be used by the owners thereof, his tenant or lessee, as a livestock ranch.

§3516. PREVENTING TRESPASS—NOTICES.

SEC. 73. Whenever the owner or lessee of any mining property in the State of New Mexico shall desire to operate the same and to prevent trespassers from entering thereon, such owner or lessees may post notices in English and Spanish in at least three public places upon said premises, warning all persons from entering upon said property without permission of the owner or lessee or his or their authorized agent or superintendent, which notices shall describe the boundaries of said property.

§3517. TRESPASS—PENALTY.

SEC. 74. After the posting of such notices, it shall be unlawful for any person to enter upon said premises without such permission, and any person violating the provisions of the preceding section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding fifty dollars or imprisonment in the county jail for a period not exceeding thirty days, or both such fine and imprisonment, in the discretion of the court: Provided, That this section shall not apply to any person or persons entering said premises in good faith for the purpose of ascertaining whether assessment work has been done, or for the purpose of making a location on government land.

§3518. PEST HOUSE.

SEC. 75. That all mining companies or other corporations doing business in this State who receive any money from their employes for the purpose of employing a physician to attend and render medical aid to any of said employes during sickness, or

to enforce sanitary regulations for the benefit of said employes, are hereby required to erect and maintain a proper and suitable pest house not less than one and one-half miles from any town, mining camp or settlement or village where the headquarters of such company may be, or where the greater portion of said employes may labor, for the purpose of taking proper care of, and quarantining any and all of said employes who may be affected with any contagious or infectious diseases, and any company or corporation violating any of the provisions of this section upon proper proceedings and conviction thereunder, shall be fined as set forth in section 1741, and in addition thereto shall be liable for all damages occasioned by their violation of the law.

§3519. TERMINATION OF LEASE—NOTICE.

SEC. 76. Hereafter any lease upon any mine, or portion of a mine, not given in writing, for a specified time, shall not be terminated until after notice of the date of such termination, given by the lessor to the lessee, not less than thirty days prior to such date of termination.

§3520. TERMINATING LEASE WITHOUT NOTICE—LIABILITY.

SEC. 77. The lessor and the mine upon which any lease is terminated without thirty days' notice shall be liable to the lessee for all damages resulting from such termination: Provided, That nothing in this or the preceding section shall prevent the forfeiture and termination of any such lease without such notice when the lessee is working the leased ground in such manner as to damage the property.

§3521. SMELTERS — LEAD POISONING OF EMPLOYEE—DUTY OF EMPLOYER.

SEC. 78. Whenever any employe of any corporation, person or persons engaged in the management and operation of any smelting works in the State of New Mexico, shall become disabled and rendered unfit for labor by reason of lead poisoning, which said lead poisoning shall be the result and consequence of said employe's performance and proper discharge of said employe's duties in and about said smelting works, said employe shall be provided with and receive all proper medical attendance, medicines and sustenance during such disability, at the expense of said corporation, person or persons so employing him.

§3522. Id.—FAILURE TO PROVIDE—PENALTY.

SEC. 79. If any such corporation, person or persons engaged

in the management and operation of any smelting works in the State of New Mexico shall fail to provide such employe with all proper medical attendance, medicines and sustenance during such disability of said employe, then the reasonable expense of providing such employe with all proper medical attendance, medicines and sustenance during such disability of said employe may be recovered from such corporation, person or persons so engaged in the management and operation of smelting works as aforesaid, in an action at law by and in the name of any person or persons rendering or providing such employe with the said medical attendance, medicines and sustenance.

OIL AND GAS.

Section

- 3986 Wells—mode of casing.
- 3987 Wells—plugging—abandoned.
- 3988 Wells—abandoned—failure to plug.
- 3989 Wells—failure to case or plug—penalty.

§3986. WELLS—MODE OF CASING.

SECTION 1. That the owner or operator of any well put down for the purpose of exploring for and producing oil or gas, shall, befort drilling into the oil or gas-bearing rock, incase the well with good and sufficient casing, and in such manner as to exclude all surface or fresh water from the lower part of such well, and from penetratng the oil or gas-bearing rock. Should any well be put down through the first into a lower or gas-bearing rock, the same shall be cased in such manner as will exclude all fresh or salt water from both upper and lower oil or gas-bearing rocks penetrated.

§3987. WELLS—PLUGGING.

SEC. 2. The owner of any well, when about to abandon or cease operating the same, for the purpose of excluding all fresh or salt water from penetrating the oil or gas bearing rocks, and before drawing the casing, shall fill the well with sand or rock sediment to the depth of ten feet above the top of each oil or gas bearing rock, and drive therein a round tapered, seasoned wooden plug at least two feet in length, and in diameter equal to the full diameter of the well below the casing, and immediately upon drawing the casing shall fill in on top of such plug with sand or rock sediment to the depth of five feet, and again drive into the well a round wooden plug three feet in length, the lower end tapering to a point and to be of the same diameter at the

distance of eighteen inches from the smaller end as the diameter of the well above the point at which the casing rested and the plug is driven; and after such plug has been driven, the well shall be filled with sand or rock sediment to the depth of not less than twenty feet.

§3988. WELLS—ABANDONED—FAILURE TO PLUG.

SEC. 3. Whenever any person may be injured by the neglect or refusal to comply with the provisions of the preceding section, it shall be lawful for such person, after notice to the owner, lessee or care taker of the premises upon which such well is located, to enter upon and fill up and plug such well in the manner provided in this chapter, and thereupon to recover the expense thereof, from the person or persons whose duty it was to plug or fill up such well in like manner as debts of such amounts are recoverable, and shall have a lien upon the fixtures and machinery and leasehold interests of the owner or operator of such well.

§3989. WELLS—FAILURE TO CASE OR PLUG—PENALTY.

SEC. 4. Any person, owner, driller, or operator violating the provisions of the first and second section of this chapter, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment, at the discretion of the court.

ARTICLE VII. THE NEW MEXICO SCHOOL OF MINES.

Section

- 5139 Objects—studies.
- 5140 Board of Regents—corporate powers—quorum.
- 5141 Officers—bond of secretary and treasurer.
- 5142 President—powers.
- 5143 Secretary and treasurer—duties—records.
- 5144 Board of Regents—powers.
- 5145 Faculties.
- 5146 Degrees and diplomas.
- 5147 Removal of employes.
- 5148 Tuition—non-residents.
- 5149 Assays, etc.—compensation.
- 5150 Declared a state school.
- 5151 Preparatory department—tuition in state schools.

§5139. OBJECTS—STUDIES.

SEC. 122. The object of the New Mexico School of Mines is to furnish facilities for the education of such persons as may de-

sire to receive instruction in chemistry, metallurgy, mineralogy, geology, mining, milling, engineering, mathematics, mechanics, drawing, the fundamental laws of the United States, and the rights and duties of citizenship, and such other courses of study, not including agriculture, as may be prescribed by the board of regents.

§5140. BOARD OF REGENTS — CORPORATE POWERS — QUORUM.

SEC. 123. The management and control of said school of mines, the care and preservation of all property of which it shall become possessed, the erection and construction of all buildings necessary for its use, and the disbursement and expenditure of all moneys, shall be vested in a board of five regents. Said regents and their successors in office shall constitute a body corporate, under the name and style of, The Regents of the New Mexico School of Mines, with the right, as such, of suing and being sued, of contracting and being contracted with, of making and using a common seal and altering the same at pleasure, and of causing all things to be done necessary to carry out the provisions of this article. A majority of the board shall constitute a quorum for the transaction of business, but a less number may adjourn from time to time.

§5141. OFFICERS—BOND OF SECRETARY AND TREASURER.

SEC. 124. The school officers shall be the same regents, be elected in the same manner and at the same time, and possess the same qualifications as the officers of the University of New Mexico, and the secretary and treasurer so elected shall give bond in the sum of ten thousand dollars in the manner provided in section 5121.

§5142. PRESIDENT—POWERS.

SEC. 125. The president of said board shall be the chief executive officer, shall preside at all meetings thereof, except that when he is absent the board may appoint a president pro tem., sign all instruments required to be executed by said board; he shall also direct the affairs generally of the said school of mines, shall nominate and by and with the advice of said board of regents, appoint all professors, instructors, tutors and other employes necessary to the proper conduct of said school of mines, and in like manner shall determine the amount of their respective salaries.

§5143. SECRETARY AND TREASURER—DUTIES—RECORDS.

SEC. 126. The secretary and treasurer shall be the financial and recording officer of said board, shall keep a true and correct account of all moneys received and expended by him, shall attest all instruments required to be signed by the president of said board, and shall keep a true and correct record of all the proceedings of said board and, generally, do all other things required of him by said board.

§5144. BOARD OF REGENTS—POWERS.

SEC. 127. The board of regents shall have power and it shall be their duty to enact by-laws, rules and regulations for the government of such school of mines, not inconsistent with the laws of the State; and they shall also prescribe the text books to be used, the course of study, the branches to be taught, the number of departments into which said school shall be divided and to change the same from time to time; to fix the scholastic year, provide apparatus, mineral and geological cabinets, and do all and everything necessary in and about the premises with a view to promoting the best interests of said institution.

§5145. FACULTIES.

SEC. 128. The immediate government of their several departments shall be intrusted to their several faculties.

§5146. DEGREES AND DIPLOMAS.

SEC. 129. The board of regents shall have power to confer such degrees and grant such diplomas as are usually conferred and granted by other similar schools.

§5147. REMOVAL OF EMPLOYEES.

SEC. 130. The regents shall have power to remove any officer, tutor or instructor, or employe connected with said school, when in their judgment the best interests of said school require it.

§5148. TUITION—NON-RESIDENTS.

SEC. 131. Said school of mines shall be a place for instruction in the branches mentioned in section 5139, with or without charge to residents of this State, as shall be deemed best by the trustees, but non-residents shall be admitted to the privileges of such school upon such terms as the regents may prescribe.

§5149. ASSAYS, ETC.—COMPENSATION.

SEC. 132. The board of regents shall require such compensa-

tion for all assays, mill tests or other services performed by said institution as they may deem reasonable, and the same shall be collected and paid into the treasury of the school of mines for said institution, and an accurate account thereof be kept in a book to be provided for that purpose.

§5150. DECLARED A STATE SCHOOL.

SEC. 133. The New Mexico School of Mines shall be the State School of Mines.

§5151. PREPARATORY DEPARTMENT — TUITION IN STATE SCHOOLS.

SEC. 134. The New Mexico School of Mines shall, in addition to the course now provided for, maintain a preparatory department.

STATE LANDS.

Section

- 5189 Leases.
- 5197 How renewed—preference.
- 5201 Coal land—not to be sold—leases—permit to prospect.
- 5202 Id.—leases—rental—area.
- 5203 Id.—leases—renewal.
- 5204 Id.—Lease—tonnage—how determined.
- 5205 Id.—lease—additional land.
- 5206 Id.—lease—bond—improvements not to be mortgaged.
- 5207 Id.—lease—improvements—disposition of.
- 5208 Id.—lease—forfeiture.
- 5209 Mineral lands—leases.
- 5210 Id.—locations—area.
- 5211 Id.—lease—survey.
- 5212 Id.—location notice.
- 5213 Id.—discovery shaft—lease—term—royalty.
- 5214 Id.—lessee, fraud by.
- 5215 Id.—commissioner—inspect records.
- 5216 Id.—lease—renewal—preference.
- 5217 Oil and gas lands—leases—term—rent—royalty—forfeiture
- 5218 Saline, oil, gas lands—not to be sold—leases.
- 5219 Saline lands—leases—royalty.
- 5220 Shale and clay deposits—leases—terms.
- 5221 Mineral lands—how developed.
- 5231 Rights-of-way.
- 5233 Leases—grazing and agricultural—mineral reserved.
- 5234 Improvements—taxation.
- 5247 Contests—rules.

§5189. LEASES.

SEC. 12. All lands owned by the State shall be subject to lease as provided by law.

§5197. HOW RENEWED—PREFERENCE.

SEC. 20. Any lessee of State lands desiring to renew his lease shall make application in writing to the Commissioner on or before the first day of August preceding the expiration of his lease; and any such lessee who has in good faith complied with all the requirements of his lease shall have a preference right to release for another term of years in accordance with the laws in force at the time of the expiration of his lease.

§5201. COAL LAND—NOT TO BE SOLD—LEASES—PERMIT TO PROSPECT.

SEC. 24. Lands belonging to the State and known to contain deposits of coal shall not be sold, but shall be leased by the Commissioner as hereinafter provided in this chapter. Any person, association of persons, or corporation may apply under the provisions of this chapter for an exclusive right to prospect for coal, for which purpose permit may be issued covering a specified area, conforming to legal subdivisions of not less than forty acres nor more than six hundred and forty acres, and for a term not exceeding one year, and upon such terms and conditions as the Commissioner may prescribe.

§5202. Id.—LEASES—RENTAL—AREA.

SEC. 25. On or before the expiration of such permit, the Commissioner may grant the applicant the right to develop and extract coal, in specified areas, for periods not exceeding five years, on such terms and conditions as are in accordance with customary methods of operation of coal mines and as will be to the best interests of the State; provided, that rental therefor shall be on a royalty basis, which shall be not less than eight cents per ton, payable quarterly. The minimum sum to be paid to the State under any such lease shall be as follows: for the first year, not less than three dollars per acre in the aggregate for the tract leased; second year, not less than four dollars per acre; and for each year thereafter during the life of the lease, not less than five dollars per acre. Any such lessee shall have a right to extend his development into, and extract coal from, any State lands contiguous or adjacent to the lands he has leased, and for such purpose a lease may be granted upon not exceeding six hundred and forty acres additional, when such additional area is tributary to the shaft, slope or other opening through which the lessee has developed or is developing the first acquired leased area, provided, that there shall not at the time be any other such lessee of such contiguous or adjacent lands.

§5203. Id.—LEASE—RENEWAL.

SEC. 26. At the expiration of any such lease, the lessee shall have the preference right of renewal, subject to such laws as may be in force at the expiration of his lease.

§5204. Id.—LEASE—TONNAGE—HOW DETERMINED.

SEC. 27. The Commissioner may employ some competent person who shall measure the cubical contents of every opening from which coal has been extracted in every leased coal mine, and shall calculate the tonnage of coal extracted therefrom, using the specific gravity of the coal as a basis of calculation, and shall check the returns made by the lessee against such calculation, allowing a reasonable percentage for the usual losses in mining and handling the production, and shall deduct for such bands of bone or rock as may be included in the coal seam, but unfit for fuel.

§5205. Id.—LEASE—ADDITIONAL LAND.

SEC. 28. The Commissioner may lease to the lessee of any State coal lands a tract of State lands, adjacent or contiguous thereto, not exceeding three hundred and twenty acres, when such adjacent or contiguous lands are necessary to the development or operation of the coal lands leased, or for trackage, yards, dwellings, offices, or for any purpose incidental or necessary to the development or operation of the coal lands so leased. Any such lease shall terminate at the same time as the lease upon the coal lands. The rental for the land, prescribed to be leased by this section, shall be \$3.00 per acre per annum. Provided, that should such leased land be underlain with coal, the coal therein shall be subject to lease, and the lessee first mentioned shall not hinder nor obstruct any other lessee from extracting the coal thereunder, and shall surrender so much of said premises to any such lessee as may be necessary for mine equipment or building used in the immediate process of extraction of the coal; and the later lessee shall pay damages to the earlier as same may appear, be agreed upon, or as determined by arbitration in the manner prescribed by law.

§5206. Id. — LEASE — BOND — IMPROVEMENTS NOT TO BE MORTGAGED.

SEC. 29. The lessee of coal lands shall not mortgage any improvements placed by him on said lands, and any such mortgage shall be null and void.

A lease to develop and dispose of coal shall not be given un-

til the applicant has filed a good and sufficient bond, to be approved by the Commissioner, conditioned for the faithful performance of the terms of such lease.

§5207. Id.—LEASE—IMPROVEMENTS—DISPOSITION OF.

SEC. 30. On the termination of a coal lands lease, the lessee shall have the right to dispose of such buildings upon such lands as, in the opinion of the Commissioner may be safely removed without injury to the lands, but the retiring lessee shall forfeit so much of his improvements as the Commissioner may deem necessary to uphold; provided, that if the Commissioner shall, at any time thereafter lease the premises and receive payment for such improvements so withheld, the amount so received shall be paid to the former lessee.

§5208. Id.—LEASE—FORFEITURE.

SEC. 31. Failure by the lessee to comply with the terms and conditions of any such lease, shall work a forfeiture thereof at the option of the Commissioner, as provided in this chapter with reference to other forfeitures.

§5209. MINERAL LANDS—LEASES.

SEC. 32. The Commissioner may execute leases and contracts for the prospecting and development of any lodes or deposits of metals or minerals in rock in place upon or in any land now belonging to the State or which it may hereafter acquire.

§5210. Id.—LOCATIONS—AREA.

SEC. 33. Any location upon lands of the State containing any lode or deposit of metals or minerals in rock in place shall be in the form of a rectangular parallelogram, except in case of a fractional area between prior appropriated lands, and such location shall not exceed 1500 feet in length by 600 feet in width in one lot, location or claim; and the right initiated by such location to extract metal bearing ores therefrom shall be limited by the side and end lines projected vertically downward. Provided, that for the purposes of this chapter it shall not be necessary that the angles, at the corner boundaries of such lots, locations or claims, shall be absolutely correct angles of ninety degrees, but approximately right angles, to be corrected when surveyed, but without infringing upon adjoining lots, locations or claims.

§5211. Id.—LEASE—SURVEY.

SEC. 34. Before any lease shall be issued covering any min-

ing claim located upon State lands, the location or claim shall be surveyed by some competent surveyor designated by the Commissioner. As far as possible the survey shall conform to the original boundaries marked by the location. The Survey shall be tied by a line, giving the distance and direction to the nearest section or quarter section corner, U. S. Survey; or if the nearest quarter section corner is more than a mile distant, then the tie shall be made to some permanent and conspicuous natural object, or to some durable monument, either of which shall be marked as a witness object for said claim. A reasonable compensation, (consistent with the labor performed and expense incurred) shall be paid to the surveyor by the locator.

The surveyor shall file a plat of the survey, together with a copy of his field notes, in the office of the Commissioner. A copy of such plat and field notes shall be delivered to the locator by the surveyor making such survey.

§5212. Id.—LOCATION NOTICE.

SEC. 35. Subject to the provisions of this chapter, any person may make locations upon, and have the right to prospect lodes or deposits as hereinabove in this chapter described. Such locations shall be made in the manner prescribed by law applicable to the location of lode claims. A copy of any location notice made as aforesaid shall be filed in the State Land Office, for the filing of which a fee of one dollar shall be paid. Fees thus received shall be credited to the State Lands Maintenance Fund. Upon filing of such copy the Commissioner shall issue a permit to the locator granting him the exclusive right to prospect for ores or metals within the limits of said location for a period of ninety days from date of said location.

§5213. Id.—DISCOVERY SHAFT—LEASE—TERM—ROYALTY.

SEC. 36. If within said period of ninety days, the locator shall sink a shaft at least ten feet in depth upon the location or shall drive a tunnel, adit or open cut in such location a depth of not less than ten feet below the surface, and shall discover ore in place upon the location, upon application therefor the Commissioner shall execute in favor of such locator, or his assigns, a good and sufficient lease, granting the right to mine and extract ores from said location during a term of not exceeding five years from the date of such lease, subject to the payment of an annual rental of twenty-five dollars, payable annually in advance, in addition to which the lessee or his heirs or assigns shall

pay to the Commissioner a royalty of two per centum of the cash returns from smelter, mill or other reduction process, from ores extracted from said location or claim, less transportation and smelting or reduction charges, accounting to be made for each shipment when returns are received by lessee, or at choice of Commissioner to be paid by smelting company or reduction works. Provided, that on deposits of precious or semi-precious stones in rock in place, a royalty of five per centum of the gross proceeds shall be paid by the lessee or his assigns, without any deduction for transportation or other charges.

§5214. Id.—LESSEE, FRAUD BY.

SEC. 37. Any lessee of mineral lands under this chapter who shall conceal or attempt to conceal any of such returns, or attempt to defraud, the State out of any such royalty shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than three years, or both; and his lease shall be forfeited in the manner hereinbefore provided in this chapter.

§5215. Id.—COMMISSIONER—INSPECT RECORDS.

SEC. 38. The Commissioner or his representative, shall have the right to inspect all records or books of account pertaining to the mining, extraction, transportation, reduction and returns of all ores taken from such leased lands.

§5216. Id.—LEASE—RENEWAL—PREFERENCE.

SEC. 39. Any lessee of such mineral lands, or the heirs, successors or assigns of such lessee, shall have a preferential right to a renewal lease, or to purchase during the life of such lease, provided all terms and conditions of the expiring lease shall have been fully performed. In case of purchase by another, one year's notice to vacate shall be given by the lessee.

§5217. OIL AND GAS LANDS—LEASES—TERM—RENT—ROYALTY—FORFEITURE.

SEC. 40. The Commissioner may execute leases for the extraction of petroleum and natural gas on and from any State lands, but no such lease shall be for a term exceeding five years or for an acreage exceeding one section. No such lease shall be made for less than twenty-five (\$25) dollars per quarter section, per annum, during the term of the lease, and in addition thereto said lease shall provide for royalty to be paid to the State of not

less than five per centum of the gross value of all petroleum and natural gas products extracted during the term of the lease, payable quarterly. Failure on the part of any such lessee to comply with the terms and conditions of his lease shall work a forfeiture and cancellation thereof, as herein provided in this chapter.

§5218. SALINE, OIL, GAS LANDS—NOT TO BE SOLD—LEASES.

SEC. 41. State saline lands and State lands known to contain valuable minerals, petroleum or natural gas in paying quantities, and sections of State lands adjoining lands upon which there are producing mines, oil wells or gas wells, or which are known to contain valuable minerals, petroleum or natural gas in paying quantities, shall not be sold, but may be leased as provided in this chapter.

§5219. SALINE LANDS—LEASES—ROYALTY.

SEC. 42. The Commissioner may execute leases for the extraction of salt from the saline lands and lakes belonging to the State. Such leases shall provide for a royalty on all salt extracted therefrom of not less than ten cents per ton payable quarterly.

§5220. SHALE AND CLAY DEPOSITS—LEASES—TERMS.

SEC. 43. The Commissioner may also execute leases for the mining, extraction or disposition of shale, clay or other natural deposits in or upon, or products of, State lands, not otherwise provided for in this chapter, upon such terms and conditions as he may deem for the best interests of the State not repugnant to law. Any mortgage upon improvements on any such lands so leased shall be void.

§5221. MINERAL LANDS—HOW DEVELOPED.

SEC. 44. All lands under lease for extraction of coal or other deposits, shall be developed and operated in a workmanlike manner and with a view to development of the whole area tributary to the shafts, drifts, tunnels or other openings made, and failure of the lessee or his assigns to observe this provision shall be cause for cancellation and forfeiture of the lease thereon in the manner hereinbefore provided in this chapter.

§5221. RIGHTS-OF-WAY.

SEC. 54. The Commissioner may grant rights-of-way and easements over, upon or across State lands for public highways, railroads, tramways, telegraph, telephone and power lines, irrigation works, mining, logging and for other purposes, upon pay-

ment by the grantee or grantees of the price fixed by the Commissioner, which shall not be less than the minimum price for the lands, used, as fixed by law.

§5233. LEASES—GRAZING AND AGRICULTURAL — MINERAL RESERVED.

SEC. 56. In all leases of State lands for grazing or agricultural purposes there shall be inserted a clause reserving the right to execute leases for mining purposes thereon, or for the extraction of petroleum, natural gas, salt, or other deposit therefrom, and the right to sell or dispose of any other natural surface products of such lands other than grazing, agricultural or horticultural products; also a clause reserving the right to grant rights-of-way and easements for any of the purposes mentioned in section 5231.

§5234. IMPROVEMENTS—TAXATION.

SEC. 57. Improvements placed upon lands leased for grazing, agricultural or mining purposes shall be subject to taxation. In case of default in the payment of taxes on such improvements, and the sale thereof for such unpaid taxes, only the interest of the lessee shall be sold.

§5247. CONTESTS—RULES.

SEC. 70. Any person, association of persons, or corporation claiming any right, title, interest or priority of claim, in or to any State lands, covered by any lease, contract, grant or any other instrument executed by the Commissioner, shall have the right to initiate a contest before the Commissioner who shall have the power to hear and determine same. The Commissioner shall prescribe appropriate rules and regulations to govern the practice and procedure of such contests.

CONSTITUTION OF NEW MEXICO

CONSTITUTION OF NEW MEXICO.

ARTICLE XVII. MINES AND MINING.

INSPECTOR OF MINES.

SECTION 1. There shall be an inspector of mines, who shall be appointed by the governor, by and with the advice and consent of the senate, for a term of four years, and whose duties and salary shall be as prescribed by law.

MINING REGULATIONS — EMPLOYMENT OF CHILDREN PROHIBITED.

SEC. 2. The legislature shall enact laws requiring the proper ventilation of mines, the construction and maintenance of escapement shafts or slopes, and the adoption and use of appliances necessary to protect the health and secure the safety of employes therein. No children under the age of fourteen years shall be employed in mines.

ARTICLE VII. INSPECTOR OF MINES.

Section

- 5362 State inspector of mines—how appointed.
- 5363 Qualifications.
- 5364 Bond—compensation.
- 5365 Duties—appeal from order.
- 5366 Inspections—refusal to allow.
- 5367 Office and instruments.

§5362. STATE INSPECTOR OF MINES—HOW APPOINTED.

SEC. 48. The state engineer, the governor and the president of the school of mines shall constitute a board of examiners, who shall examine all applicants for the appointment to the office of state inspector of mines as to their qualifications to hold said office. Said board shall examine all such applicants and the governor shall, by and with the advice and consent of the Senate, appoint some qualified person so examined to said office.

§5363. QUALIFICATIONS.

SEC. 49. No person shall be eligible to hold said office unless he be a citizen of the United States, at least thirty years of age, a resident of New Mexico for one year next preceding his appointment, and shall have had at least three years experience in

the workings of coal mines in New Mexico, and at least five years of practical experience in the workings of coal mines in the United States, and have a practical knowledge of mining engineering, of mine timbering, of the different systems of working and ventilating coal mines, of the nature and properties of noxious and poisonous gases of mines, and of the methods of dispelling the same and guarding against explosions, and shall not be interested financially or otherwise in any coal mine or company operating any coal mine in the State.

§5364. BOND—COMPENSATION.

SEC. 50. The inspector shall give bond to the state in the sum of three thousand dollars (\$3,000.00), and shall receive as compensation for his services the sum of two thousand dollars (\$2,000.00) per annum, payable monthly, and in addition actual and necessary transportation and traveling expenses.

Vouchers covering such expenses for each month, accompanied by sub-vouchers for the items thereof whenever practical, excepting railroad fares, shall be submitted to the state auditor by the inspector before any account of the inspector shall be allowed.

§5365. DUTIES—APPEAL FROM ORDER.

SEC. 51. The duties of the inspector shall be as follows, to-wit:

He shall:

(1) Make a careful and thorough inspection of every coal mine operated in the State as often as in his opinion may be necessary.

(2) Proceed without delay to any mine within the State when he learns of any explosion or other catastrophe therein by which lives of men are jeopardized or in which fatalities have occurred, and render such aid as he can in the rescue of persons within the mine and in the protection of rescuers from danger.

(3) Shall give notice to the owners, operators or managers of any coal mine wherein he shall find improper construction or that said mine is not furnished with reasonable and proper machinery and appliances for the safety of miners and other employes, that said mine is unsafe, stating in what particular the same is unsafe, and shall require said owners, operator or managers to provide such additional machinery, slopes, entries, means of escape, ventilation or other appliances necessary to

the safety of miners and other employes of said mine within a period to be named in said notice.

(4) Shall inspect and pass upon the adequacy and safety of all hoisting apparatus in mines, and may demand a test of safety catches or clutches upon such hoisting apparatus as often as once in every three months or whenever he may believe such hoisting apparatus to be defective; he shall conduct said test by detachment of the rope or cable at a point in the shaft or above the shaft where the cage may be arrested in its fall with as little wreckage of property as possible if the safety catches or clutches should prove defective.

(5) He shall arrange a uniform system of mine bell signals after consultation with the engineers in charge of hoisting apparatus and the operators of mines within the State, and shall at once furnish a copy of the same to each mine owner, operator or manager within the State.

(6) Shall make an annual report to the governor on or before the first day of December of each year; which said report shall contain a review of the official acts of the inspector; statistics of the number of persons employed in and about the coal mines in the State and of the production and the estimated value thereof, and a resume of the mining conditions generally existing in the State during the said year.

(7) The Inspector is hereby given authority at all reasonable times to enter and inspect any coal mine in the State and the workings and machinery belonging thereto in such manner as not to impede or obstruct the workings of the mine: to make inquiry into the state of the mine, works and machinery thereof, the ventilation and mode of lighting the same, and all matters and things connected with and relating to the safety of employes in and about the mines, and especially to the end that the provisions of law shall be complied with by the owners, operators or managers thereof; to require that some person of practical experience and responsibility representing the owner, operator, or manager shall accompany the said inspector upon such trips of inspection through the mine in order that the inspector may point out and specify any defects in the mine, in the methods of mining and in the equipment and construction thereof, which defects may violate any of the provisions of law.

And to require that the owner, operator or manager shall at all times furnish means necessary for such entry, inspection, examination and inquiry.

The inspector shall make an entry of record in his office of the time and material circumstances of each inspection.

(8) Every owner, operator or manager of any such mine shall have a right of appeal to the district court in the county wherein such mine is situated, as to the necessity or reasonableness of the order or requirements of the inspector under any of the provisions of this article and section 3507.

§5366. INSPECTIONS—REFUSAL TO ALLOW.

SEC. 52. Every owner, agent, manager or lessee of any coal mine in this State shall admit the inspector for the purpose of making examination and inspection, provided for by law. Any owner, agent, operator, manager or lessee who shall refuse to allow such inspection to be made shall, upon conviction, be deemed guilty of a misdemeanor, and shall be fined in a sum not less than fifty dollars nor more than five hundred dollars, or by imprisonment not less than one nor more than three months, or by both such fine and imprisonment.

§5367. OFFICE AND INSTRUMENTS.

SEC. 53. The State shall provide for the use of the mine inspector a suitable office with fuel and light, provided with necessary furniture, fixtures, files and supplies for properly conducting his business as provided in this article; and shall further provide for the use of the inspector an anemometer, a barometer, safety lamps and other appliances and instruments necessarily required in the work of mine inspector.

§5614. SALT LAKES.

SEC. 160. All the salt lakes within this State, and the salt which has, or may accumulate on the shores thereof, is, and shall be free to the citizens, and each one shall have power to collect salt on any occasion free from molestation or disturbance. If any person or persons shall prevent any other person or persons, or shall attempt to prevent them from gathering salt, or going for, or returning with it, or shall arm or embody themselves for any or either of the above purposes, or shall molest or disturb, hinder or annoy any person or persons gathering salt, or going to, or returning from any salt lakes, or shall interfere with the salt gathered, or the animals, carts, or wagons, or any other mode of conveyance or transportation, shall be deemed guilty of felony, and punished by confinement in the penitentiary, not less than two nor more than seven years, or by fine of not less than one thousand dollars.

As to place of confinement see Sec. 5235. The original act contains the following preamble: "*Whereas*, by the laws of Spain, and by the laws of the Republic of Mexico, free and common use was granted the people of New Mexico, and to the people of all the states and provinces of said Republic, of all salt lakes within their respective limits, precluding all individual right of control over the same; and that the people of this Territory have freely exercised that right from its earliest settlement; and that the same has been guaranteed to them by the treaty between the United States and the Republic of Mexico:

And, whereas, one James Magoffin, a citizen of the State of Texas, has set up a fictitious claim to the San Andres Salt Lakes, in the southern part of this Territory, and has attempted, forcibly, to prevent the citizens of this Territory from taking salt from the same, and while engaged in the peaceable exercise of this right, has attacked them with bodies of armed men, fired upon, and wounded them, destroyed and carried off their property, and committed other acts of wrong and outrage against them:

And, whereas, it is the duty of the Legislative Assembly of this Territory, by proper laws to protect its citizens in their just rights of property and person."

**MINING STATUTES OF THE
UNITED STATES**

MINING STATUTES OF THE UNITED STATES.

ORIGINAL MINING ACT.

14 Stat. 251, July 26, 1886.

(An Act Granting the Right of Way to Ditch and Canal Owners Over the Public Lands, and for Other Purposes.)

Be it enacted, etc., That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and occupation by all citizens of the United States, and those who have declared their intention to become citizens subject to such regulations as may be prescribed by law, and subject also to the local customs or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States.

SEC. 2. That whenever any person, or association of persons, claim a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, or copper, having previously occupied and improved the same according to the local customs or rules of miners in the district where the same is situated, and having expended in actual labor and improvements thereon, an amount of not less than \$1,000, and in regard to whose possession there is no controversy or opposing claim, it shall and may be lawful for said claimant or association of claimants to file in the local land office a diagram of the same, so extended laterally or otherwise as to conform to the local laws, customs, and rules of miners, and to enter such tract and receive a patent therefor, granting such mine, together with the right to follow such vein or lode with its dips, angles, and variations, to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition.

SEC. 3. That upon the filing of the diagram as provided in the second section of this act, and posting the same in a conspicuous place on the claim, together with a notice of intention to apply for a patent, the register of the land office shall publish a notice of the same in a newspaper published nearest to the location of said claim, and shall also post such notice in his office for the period of 90 days; and after the expiration of said period, if no adverse claim shall have been filed, it shall be the duty of the surveyor general, upon application of the party, to

survey the premises and make a plat thereof, indorsed with his approval, designating the number and description of the location, the value of the labor and improvements, and the character of the vein exposed; and upon the payment to the proper officer of \$5 per acre, together with the cost of such survey, plat, and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during the said period of 90 days, the register of the land office shall transmit to the General Land Office said plat, survey, and description; and a patent shall issue for the same thereupon. But said plat, survey, or description shall in no case cover more than one vein or lode, and no patent shall issue for more than one vein or lode, which shall be expressed in the patent issued.

SEC. 4. That when such location and entry of a mine shall be upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys to the limits of the premises according to the location and possession and plat aforesaid; and the surveyor general may, in extending the surveys, vary the same from a rectangular form, to suit the circumstances of the country and the local rules, laws, and customs of miners: Provided, That no location hereafter shall exceed 200 feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, with all its dips, variations, and angles, together with a reasonable quantity of surface for the convenient working of the same as fixed by local rules: And provided further, That no person may make more than one location on the same lode, and not more than 3,000 feet shall be taken in any one claim by any association of persons.

SEC. 5. That as a further condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

SEC. 6. That whenever any adverse claimants to any mine located and claimed as aforesaid shall appear before the approval of the survey, as provided in the third section of this act, all proceedings shall be stayed until final settlement and adjudication, in the courts of competent jurisdiction, of the rights of possession to such claim, when a patent may issue as in other cases.

SEC. 7. That the President of the United States be, and is hereby, authorized to establish additional land districts, and to appoint the necessary officers under existing laws, whenever he may deem the same necessary for the public convenience in executing the provisions of this act.

SEC. 8. That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

SEC. 9. That whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed: Provided, however, That whenever after the passage of this act, any person or persons shall, in the construction of any ditch or canal, injure or damage the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 10. That wherever, prior to the passage of this act, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the said settlers or owners of such homesteads shall have a right of preemption thereto, and shall be entitled to purchase the same at the price of \$1.25 per acre, and in quantity not to exceed 160 acres; or said parties may avail themselves of the provisions of the act of Congress approved May 20, 1862, entitled "An act to secure homesteads to actual settlers on the public domain," and acts amendatory thereof.

SEC. 11. That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of the said lands as are clearly agricultural lands, which lands shall thereafter be subject to preemption and sale as other public lands of the United States, and subject to all the laws and regulations applicable to the same.

ORIGINAL MINING ACT—Amendment.

16 Stat. 217, July 9, 1870.

MINERAL LANDS—OCCUPATION.

An Act to Amend "An Act Granting the Right of Way to Ditch and Canal Owners Over the Public Lands, Etc."

Be it enacted, etc. That the act granting the right of way to ditch and canal owners over the public lands, and for other purposes, approved July 26, 1866, be, and the same is hereby, amended by adding thereto the following additional sections, numbered 12, 13, 14, 15, 16, and 17, respectively, which shall hereafter constitute and form a part of the aforesaid act.

SEC. 12. That claims, usually called "placers," including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent under this act, under like circumstances and conditions and upon similar proceedings as are provided for vein or lode claims: Provided, That where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands, no further survey or plat in such case being required, and the lands may be paid for at the rate of \$2.50 per acre: Provided further, That legal subdivisions of 40 acres may be subdivided into 10-acre tracts; and that two or more persons, or associations or persons, having contiguous claims of any size, although such claims may be less than 10 acres each, may make joint entry thereof: And provided further, That no location of a placer claim, hereafter made shall exceed 160 acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide preemption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

SEC. 13. That where said person or association, they and their grantors, shall have held and worked their said claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated. evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a

patent thereto under this act, in the absence of any adverse claim: Provided, however, That nothing in this act shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

SEC. 14. That all ex parte affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claims may be situated.

SEC. 15. That registers and receivers shall receive the same fees for services under this act as are provided by law for like services under other acts of Congress; and that effect shall be given to the foregoing act according to such regulations as may be prescribed by the Commissioner of the General Land Office.

SEC. 16. That so much of the act of March 3, 1853, entitled "An act to provide for the survey of the public lands in California, the granting of preemption rights, and for other purposes," as provides that none other than township lines shall be surveyed where the lands are mineral, is hereby repealed. And the public surveys are hereby extended over all such lands: Provided, That all subdividing of surveyed lands into lots less than 160 acres may be done by county and local surveyors at the expense of the claimants: And provided further, That nothing herein contained shall require the survey of waste or useless lands.

SEC. 17. That none of the rights conferred by sections 5, 8, and 9 of the act to which this act is amendatory shall be abrogated by this act, and the same are hereby extended to all public lands affected by this act; and all patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water right, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by the ninth section of the act of which this act is amendatory. But nothing in this act shall be construed to repeal, impair, or in any way affect the provisions of the "Act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July 25, 1866.

MINING ACT—REVISION.**17 Stat. 91, May 10, 1872.****An Act to Promote the Development of the Mining Resources of the United States.**

Be it enacted, etc., That all valuable mineral deposits of lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners, in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

SEC. 2. That mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the passage of this act, whether located by one or more persons, may equal, but shall not exceed, 1,500 feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than 300 feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than 25 feet on each side of the middle of the vein at the surface, except where adverse rights existing at the passage of this act shall render such limitation necessary. The end lines of each claim shall be parallel to each other.

SEC. 3. That the locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists at the passage of this act, so long as they comply with the laws of the United States, and with State, Territorial, and local regulations not in conflict with said laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far

depart from a perpendicular in their course downward as to extend outside the vertical side lines of said surface locations: Provided, That their right of possession to such outside parts of said veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as aforesaid, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of said veins or ledges: And provided further, That nothing in this section shall authorize the locator or the possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

SEC. 4. That where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within 3,000 feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of said tunnel.

SEC. 5. That the miners of each mining district may make rules and regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of location, and such a description of the claim or claims located by reference to some natural object or permanent monuments as will identify the claim. On each claim located after the passage of this act, and until a patent shall have been issued therefor, not less than \$100 worth of labor shall be performed or improvements made during each year. On all claims located prior to the passage of this act, \$10 worth of labor shall be performed or improvements made each year for each 100 feet in length along the vein until a patent shall have been issued therefor; but where

such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made: Provided, That the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after such failure and before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required by this act, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for 90 days, and if at the expiration of 90 days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion to comply with this act, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

SEC. 6. That a patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this act, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this act, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field notes of the claim or claims in common, made by or under the direction of the United States surveyor general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted as aforesaid, and shall file a copy of said notice in such land office, and shall thereupon be entitled to a patent for said land, in the manner following: The register of the land office, upon the filing of such application, plat, field notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of 60 days, in a newspaper to be by him designated as published nearest to said claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application,

or at any time thereafter, within the 60 days of publication, shall file with the register a certificate of the United States surveyor general that \$500 worth of labor has been expended or improvements made upon the claim, by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the 60 days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during said period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land office at the expiration of the 60 days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of \$5 per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with this act.

SEC. 7. That where an adverse claim shall be filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within 30 days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment roll with the register of the land office, together with the certificate of the surveyor general that the requisite amount of labor has been expended, or improvements made thereon, and the description required in other cases, and shall pay to the receiver \$5 per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment roll shall be certified by the register to the Commissioner of the General Land Office, and a patent shall issue thereon for the claim, or such portion thereof as the

applicant shall appear, from the decision of the court to rightly possess. If it shall appear from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor general, whereupon the register shall certify the proceedings and judgment roll to the Commissioner of the General Land Office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Proof of citizenship under this act, or the acts of July 26, 1866, and July 9, 1870, in the case of an individual, may consist of his own affidavit thereof, and in case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief, and in case of a corporation organized under the laws of the United States, or of any State or Territory of the United States, by the filing of a certified copy of their charter or certificate of incorporation; and nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining claim to any person whatever.

SEC. 8. That the description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued as aforesaid for claims upon unsurveyed lands, the surveyor general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

SEC. 9. That sections 1, 2, 3, 4, and 6 of an act entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July 26, 1866, are hereby repealed, but such repeal shall not affect existing rights. Applications for patents for mining claims now pending may be prosecuted to a final decision in the General Land Office; but in such cases where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this act; and all patents for mining claims heretofore issued under the act of July 26, 1866, shall convey all the rights and privileges conferred by this act where no adverse rights exist at the time of the passage of this act.

SEC. 10. That the act entitled "An act to amend an act grant-

ing the right of way to ditch and canal owners over the public lands, and for other purposes," approved July 9, 1870, shall be and remain in full force, except as to the proceedings to obtain a patent, which shall be similar to the proceedings prescribed by sections 6 and 7 of this act for obtaining patents to vein or lode claims; but where said placer claims shall be upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims hereafter located shall conform as near as practicable with the United States system of public land surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than 20 acres for each individual claimant, but where placer claims can not be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands: Provided, That proceedings now pending may be prosecuted to their final determination under existing laws; but the provisions of this act, when not in conflict with existing laws, shall apply to such cases: And provided also, That where by the segregation of mineral land in any legal subdivision, a quantity of agricultural land less than 40 acres remains, said fractional portion of agricultural land may be entered by any party qualified by law, for homestead or preemption purposes.

SEC. 11. That where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case, (subject to the provisions of this act and the act entitled "An act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July 9, 1870), a patent shall issue for the placer claim including such vein or lode, upon the payment of \$5 per acre for such vein or lode claim, and 25 feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of \$2.50 per acre, together with all costs of proceedings; and where a vein or lode, such as is described in the second section of this act, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where

the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

SEC. 12. That the surveyor general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivisions of placer claims into smaller quantities than 160 acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Commissioner of the General Land Office shall also have power to establish the maximum charges for surveys and publication of notices under this act; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by said applicant for publication and surveys, together with all fees and money paid the register and the receiver of the Land Office, which statement shall be transmitted, with the other papers in the case, to the Commissioner of the General Land Office. The fees of the register and receiver shall be \$5 each for filing and acting upon each application for patent or adverse claim filed, and they shall be allowed the amount fixed by law for reducing testimony to writing, when done in the Land Office, such fees and allowances to be paid by the respective parties; and no other fees shall be charged by them in such cases. Nothing in this act shall be construed to enlarge or affect the rights of either party in regard to any property in controversy at the time of the passage of this act, or of the act entitled "An act granting the right of way to ditch and canal owners over public lands, and for other purposes," approved July 26, 1866, nor shall this act affect any right acquired under this act; and nothing in this act shall be construed to repeal, impair, or in any way affect the provisions of an act entitled "An act granting to A. Sutro the right of way, and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode in the State of Nevada," approved July 25, 1866.

SEC. 13. That all affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the Land Office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least 10 days to the opposing party; or if said party cannot be found, then by publication of at least once a week for 30 days in a newspaper, to be designated by the register of the Land Office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

SEC. 14. That where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection: Provided, however, That the subsequent location shall have the right of way through said space of intersection for the purposes of the convenient working of the said mine: And provided also, That where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

SEC. 15. That where nonmineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such nonadjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable under this act to veins or lodes: Provided, That no location hereafter made of such nonadjacent land shall exceed 5 acres, and payment for the same must be made at the same rate as fixed by this act for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill site, as provided in this section.

SEC. 16. That all acts and parts of acts inconsistent herewith are hereby repealed: Provided, That nothing contained in this act shall be construed to impair, in any way, rights or interests in mining property acquired under existing laws.

AMENDMENT TO 17 STAT. 91.

said section shall be liable at the suit of the party of person
18 Stat. 61, June 6, 1874.

An Act to Amend An Act Entitled "An Act to Promote the Development of the Mining Resources of the United States," passed May 10, 1872.

Be it enacted, etc., That the provisions of the fifth section of the act entitled "An act to promote the development of the mining resources of the United States," passed May 10, 1872, which requires expenditures of labor and improvements on claims located prior to the passage of said act, are hereby so amended that the time for the first annual expenditure on claims located prior to the passage of said act shall be extended to the 1st day of January, 1875.

MINING STATUTES OF THE UNITED STATES.

Sections Relating to Metalliferous Mining.

§2318, Revised Statutes.

In all cases lands valuable for minerals shall be reserved from sale, excepting as otherwise expressly directed by law.

The various provisions of the original mining statutes, including the several acts of July 4, 1866 (14 Stat. 85), July 26, 1866 (14 Stat. 251), July 9, 1870 (16 Stat. 217), May 10, 1872 (17 Stat. 91), February 18, 1873 (17 Stat. 465), and March 3, 1873 (17 Stat. 607), are codified and embodied within this and the following sections of the Revised Statutes.

The act of May 10, 1872 (17 Stat. 91), was the foundation of the existing system of mining laws by which citizens of the United States acquired rights to the public mineral lands, and the provisions of that act are now embodied in this and the succeeding sections.

This section, with sections 2319 R. S. to 2326 R. S., are parts of the system of pre-emption laws providing for the sale and acquisition of title to the public mineral lands of the United States; and as they concern the same subject-matter they may be construed together and effect must be given to each section and provision of the law so far as possible.

This and other sections of the mining laws recognize and sanction the custom long prevalent among the miners of the Pacific Coast of organizing mining districts and adopting local laws or rules governing the location, recording, and working of mining claims, and miners are authorized to make rules and regulations in addition to but not in conflict with those prescribed by Congress.

This section is declaratory of the general policy of the Government with respect to her mineral lands.

§2319, Revised Statutes.

All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

§2320, Revised Statutes.

Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the 10th day of May, 1872, whether located by one or more persons, may equal, but not exceed, 1,500 feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than 300 feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than 25 feet on each side of the middle of the vein at the surface, except where adverse rights existing on the 10th day of May, 1872, render such limitation necessary. The end lines of each claim shall be parallel to each other.

§2321, Revised Statutes.

Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any State or Territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

§2322, Revised Statutes.

The locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists on the 10th day of May, 1872, so long as they comply with the laws of the United States, and with State, Territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of

possession to such outside parts of such veins or ledges may be confined to such portions thereof as lie between vertical planes drawn downward, as above described, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

§2323, Revised Statutes.

Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within 3,000 feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid, but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.

§2324, Revised Statutes.

The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the 10th day of May, 1872, and until a patent has been issued therefor, not less than one hundred dollars worth of labor shall be performed or improvements made during each year. On all claims located prior to the 10th day of May, 1872, ten dollars' worth of labor shall be performed or improvements made by the 10th day of June, 1874, and each year thereafter, for each 100 feet in length along the vein until a

patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several coowners to contribute his proportion of the expenditures required hereby, the coowners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section his interest in the claim shall become the property of his co-owners who have made the required expenditures.

§2325, Revised Statutes.

A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or incorporation authorized to locate a claim under this chapter, having claimed and located a piece of land for such purposes, who has, or have complied with the terms of this chapter, may file in the proper land office an application for a patent, under oath, showing such compliance together with a plat and field notes of the claim or claims in common, made by or under the direction of the United States surveyor general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such land office, and shall thereupon be entitled to a patent for the land, in the manner following: The register of the land office, upon the filing of such application, plat, field notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of 60 days, in a newspaper to be by him designated as published nearest to such claim;

and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within the 60 days of publication, shall file with the register a certificate of the United States surveyor-general that \$500 worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, and such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description to be incorporated in the patent.

At the expiration of the 60 days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the register and the receiver or the proper land office at the expiration of the 60 days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of \$5 per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of this chapter.

§2323, Revised Statutes.

Where an adverse claim is filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment roll with the register of the land office, together with the certificate of the surveyor general that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the receiver \$5 per acre for his claim, together

with the proper fees, whereupon the whole proceedings and the judgment roll shall be certified by the register to the Commissioner of the General Land Office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim with the proper fees, and file the certificate and description by the surveyor general, whereupon the register shall certify the proceedings and judgment roll to the Commissioner of the General Land Office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Nothing herein contained shall be construed to prevent the alienation of a title conveyed by a patent for a mining claim to any person whatever.

§2327, Revised Statutes.

The description of vein or lode claims, upon surveyed lands, shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued for claims upon unsurveyed lands, the surveyor general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

§2328, Revised Statutes.

Applications for patents for mining claims under former laws now pending may be prosecuted to a final decision in the General Land Office; but in such cases where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this chapter; and all patents for mining claims upon veins or lodes heretofore issued shall convey all the rights and privileges conferred by this chapter where no adverse rights existed on the 10th day of May, 1872.

§2329, Revised Statutes.

Claims usually called "placers," including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands.

§2330, Revised Statutes.

Legal subdivisions of 40 acres may be subdivided into 10-acre tracts; and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than 10 acres each, may make joint entry thereof; but no location of a placer claim, made after the 9th day of July, 1870, shall exceed 160 acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide preemption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

§2331, Revised Statutes.

Where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer-mining claims located after the 10th day of May, 1872, shall conform as near as practicable with the United States system of public-land surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than 20 acres for each individual claimant; but where placer claims can not be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral lands in any legal subdivision a quantity of agricultural land less than 40 acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead or preemption purposes.

§2332, Revised Statutes.

Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this chapter, in the absence of any adverse claim; but nothing in this chapter shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

§2333, Revised Statutes.

Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for

the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for for the placer claim, subject to the provisions of this chapter, including such vein or lode, upon the payment of \$5 per acre for such vein or lode claim and 25 feet of surface on each side thereof. The remainder of the placer claim or any placer claim not embracing any vein or lode claim shall be paid for at the rate of \$2.50 per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section 2320, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

§2334, Revised Statutes.

The surveyor general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than 160 acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Commissioner of the General Land Office shall also have the power to establish the maximum charges for surveys and publication of notices under this chapter; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the Commissioner may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid the register and the receiver of the land office, which statement shall be transmitted, with the other papers in the case, to the Commissioner of the General Land Office.

§2335, Revised Statutes.

All affidavits required to be made under this chapter may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least 10 days to the opposing party; or if such party cannot be found, then by publication of at least once a week for 30 days in a newspaper, to be designated by the register of the land office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

§2336, Revised Statutes.

Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right of way through the space of intersection for the purposes of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

§2337, Revised Statutes.

Where nonmineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such nonadjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such nonadjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill site, as provided in this section.

§2338, Revised Statutes.

As a condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may

provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

§2339, Revised Statutes.

Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

§2340, Revised Statutes.

All patents granted, or preemption, or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by the preceding section.

§2341, Revised Statutes.

Wherever, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the settlers or owners of such homesteads shall have a right of pre-emption thereto, and shall be entitled to purchase the same at the price of \$1.25 per acre, and in quantity not to exceed 160 acres; or they may avail themselves of the provisions of chapter 5 of this Title, relating to "Homesteads."

§2342, Revised Statutes.

Upon the survey of the lands described in the preceding section, the Secretary of the Interior may designate and set apart such portions of the same as are clearly agricultural lands, which

lands shall thereafter be subject to preemption and sale as other public lands, and be subject to all the laws and regulations applicable to the same.

§2343, Revised Statutes.

The President is authorized to establish additional land districts, and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this chapter.

§2344, Revised Statutes.

Nothing contained in this chapter shall be construed to impair, in any way, rights or interests in mining property acquired under existing laws; nor to affect the provisions of the act entitled "An act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July 25, 1866.

§2345, Revised Statutes.

The provisions of the preceding sections of this chapter shall not apply to the mineral lands situated in the States of Michigan, Wisconsin, and Minnesota, which are declared free and open to exploration and purchase, according to legal subdivisions, in like manner as before the 10th day of May, 1872. And any bona fide entries of such lands within the States named since the 10th day of May, 1872, may be patented without reference to any of the foregoing provisions of this chapter. Such lands shall be offered for public sale in the same manner, at the same minimum price, and under the same rights of preemption as other public lands.

§2346, Revised Statutes.

No act passed at the first session of the Thirty-eighth Congress granting lands to States or corporations to aid in the construction of roads or for other purposes, or to extend the time of grants made prior to the 30th day of January, 1865, shall be so construed as to embrace mineral lands, which in all cases are reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant.

COAL STATUTES.

13 Stat. 343, July 1, 1864.

COAL LANDS—DISPOSAL.

An Act to Dispose of Coal Lands and of Town Property in the Public Domain.

Be it enacted, etc., That where any tracts embracing coal beds or coal fields, constituting portions of the public domain, and which, as mines," are excluded from the preemption act of 1841, and which under past legislation are not liable to ordinary private entry, it shall and may be lawful for the President to cause such tracts, in suitable legal subdivisions, to be offered at public sale to the highest bidder, after public notice of not less than three months, at a minimum price of \$20 per acre; and any lands not thus disposed of shall thereafter be liable to private entry at said minimum.

COAL LANDS—DISPOSAL—AMENDMENT.

13 Stat. 529, March 3, 1865.

An Act Supplemental to the Act Approved July 1, 1864, for the Disposal of Coal Lands, Etc.

Be it enacted, etc., That in the case of any citizen of the United States who, at the passage of this act, may be in the business of bona fide actual coal mining on the public lands, except on lands reserved by the President of the United States for public uses, for purposes of commerce, such citizen, upon making proof satisfactory to the register and receiver to that effect, shall have the right to enter, according to legal subdivisions, a quantity of land not exceeding 160 acres, to embrace his improvements and mining premises, at the minimum price of \$20 per acre, fixed in the coal and town property act of July 1, 1864: Provided, That where the mining improvements and premises are on lands surveyed at the passage of this act, a sworn declaratory statement descriptive of the tract and premises, showing also the extent and character of the improvements, shall be filed within six months from the date of this act; and proof and payment shall be made within one year from the date of such filing; but where such mining premises may be on lands hereafter to be surveyed, such declaratory statement shall be filed within three months from the return to the district land office of the

official plat; and proof and payment shall be made within one year from the date of filing.

SEC. 2. And be it further enacted, That in the case of any city or town which, at the passage of this act, may be existing on the public lands in which the lots therein may be variant as to size from the limitations fixed in the said act of July 1, 1864, and in which the lots and buildings as municipal improvements shall cover an area greater than 160 acres, such variance as to size of lots or excess in area shall prove no bar to such city or town claim, under said act of July 1, 1864, effect to be given to this act according to such regulations as may be prescribed by the Secretary of the Interior: Provided, That the minimum price of each said lots in any such town or city, which may contain a greater number of square feet than the maximum named in the act to which this is an amendment, shall be increased to such reasonable amount as the Secretary of the Interior may by rule establish: Provided, further, That where mineral veins are possessed, which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town lots to be acquired shall be subject to such recognized possession and the necessary use thereof: Provided, however, That nothing contained herein shall be so construed as to recognize any color of title in possessors for mining purposes as against the Government of the United States.

ORIGINAL COAL-LAND ACT.

17 Stat. 607, March 8, 1878.

An Act to Provide for the Sale of the Lands of the United States Containing Coal.

Be it enacted, etc., That any person above the age of 21 years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding 160 acres to such individual person, or 320 acres to such association, upon payment to the receiver of not less than \$10 per acre for such lands, where the same shall be situated more than 15 miles from any completed railroad, and not less than \$20 per acre for such lands as shall be within 15 miles of such road.

SEC. 2. That any person or association or persons severally qualified as above, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under the foregoing provisions, of the mines so opened and improved: Provided, That when any association of not less than four persons, severally qualified as in section 1 of this act, shall have expended not less than \$5,000 in working and improving any such mine or mines, such association may enter not exceeding 640 acres, including such mining improvements.

SEC. 3. That all claims under section 2 of this act must be presented to the register of the proper land district within 60 days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor: Provided, That when the township plat is not on file at the date of such improvement, filing must be made within 60 days from the receipt of such plat at the district office: And provided further, That where the improvements shall have been made prior to the expiration of three months from the passage of this act, 60 days from the expiration of said three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this act shall be allowed until the expiration of six months from the date hereof.

SEC. 4. That this act shall be held to authorize only one entry by the same person or association of persons under its provisions; and no association of persons, any member of which shall have taken the benefit of this act, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions of this act; and no member of any association which shall have taken the benefit of this act shall enter or hold any other lands under its provisions; and all persons claiming under section 2 hereof shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

SEC. 5. That in case of conflicting claims upon lands where the improvements shall be hereafter commenced, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right of pur-

chase. And also where improvements have already been made at the date of the passage of this act, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties; and the Commissioner of the General Land Office shall be, and is hereby, authorized to issue all needful rules and regulations for carrying into effect the provisions of this act.

SEC. 6. That nothing in this act shall be construed to destroy or impair any rights which may have attached prior to its passage, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

COAL LAND SECTIONS.

§2347, Revised Statutes.

I. COAL SECTIONS.

Every person above the age of 21 years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding 160 acres to such individual person, or 320 acres to such association, upon payment to the receiver of not less than \$10 per acre for such lands, where the same shall be situated more than 15 miles from any completed railroad, and not less than \$20 per acre for such lands as shall be within 15 miles of such road.

§2348, Revised Statutes.

Any person or association of persons severally qualified, as above provided, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under the preceding section, of the mines so opened and improved: Provided, That when any association of not less than four persons, severally qualified as above provided, shall have expended not less than \$5,000 in working and improving any such mine or mines, such association may enter not exceeding 640 acres, including such mining improvements.

§2349, Revised Statutes.

All claims under the preceding section must be presented to the register of the proper land district within 60 days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor; but when the township plat is not on file at the date of such improvement, filing must be made within 60 days from the receipt of such plat at the district office; and where the improvements shall have been made prior to the expiration of three months from the 3rd day of March, 1873, 60 days from the expiration of such three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this

section shall be allowed until the expiration of six months from the 3d day of March, 1873.

§2350, Revised Statutes.

The three preceding section shall be held to authorize only one entry by the same person or association of persons; and no association of persons any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such sections shall enter or hold any other lands under their provisions; and all persons claiming under section 2348 shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

§2351, Revised Statutes.

In case of conflicting claims upon coal lands where the improvements shall be commenced, after the 3d day of March, 1873, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made prior to the 3d day of March, 1873, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties. The Commissioner of the General Land Office is authorized to issue all needful rules and regulations for carrying into effect the provisions of this and the four preceding sections.

§2352, Revised Statutes.

Nothing in the five preceding sections shall be construed to destroy or impair any rights which may have attached prior to the 3d day of March, 1873, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

COAL DEPOSITS RESERVED—NON-MINERAL SELECTIONS.

35 Stat. 844, March 8, 1909.

An Act for the Protection of the Surface Rights of Entryman.

Be it enacted, etc., That any person who has in good faith located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified,

claimed, or reported as being valuable for coal may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner, caused thereby as may be determined by a court of competent jurisdiction: Provided, That the owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit: Provided further, That nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him. Such locator, selector, or entry man who has heretofore made or shall hereafter make final proof showing good faith and satisfactory compliance with the law under which his land is claimed shall be entitled to a patent without reservation unless at the time of such final proof and entry it shall be shown that the land is chiefly valuable for coal.

COAL LANDS—AGRICULTURAL ENTRIES.

86 Stat. 583, June 22, 1910.

An Act to Provide for Agricultural Entries on Coal Lands.

Be it enacted, etc., That from and after the passage of this act unreserved public lands of the United States, exclusive of Alaska which have been withdrawn or classified as coal lands, or are valuable for coal, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert-land law, to selection under section 4 of the act approved August 18, 1894, known as the Carey Act, and to withdrawal under the act approved June 17, 1902, known as the Reclamation Act, whenever such entry, selection, or withdrawal shall be made with a view of obtaining or passing title, with a reservation to the United States of the coal in such lands and of the right to prospect for, mine, and remove the same. But no desert entry made under the

provisions of this act shall contain more than 160 acres, and all homestead entries made hereunder shall be subject to the conditions, as to residence and cultivation, of entries under the act approved February 19, 1909, entitled "An act to provide for an enlarged homestead:" Provided, That those who have initiated nonmineral entries, selections, or locations in good faith, prior to the passage of this act, on lands withdrawn or classified as coal lands may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in this act.

SEC. 2. That any person desiring to make entry under the homestead laws or the desert-land law, any State desiring to make selection under section 4 of the act of August 18, 1894, (28 Stat. 372), known as the Carey Act, and the Secretary of the Interior in withdrawing under the Reclamation Act (32 Stat. 388) lands classified as coal lands, or valuable for coal, with a view of securing or passing title to the same in accordance with the provisions of said acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of this act.

SEC. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which entry is made, and of this act, the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the coal in the lands so patented, together with the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal. Any person qualified to acquire coal deposits or the right to mine and remove the coal under the laws of the United States shall have the right, at all times, to enter upon the lands selected, entered, or patented, as provided by his act, for the purpose of prospecting for coal thereon upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the

coal therefrom, and mine and remove the coal, upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: Provided, That the owner under such limited patent shall have the right to mine coal for use upon the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: Provided, further, That nothing herein contained shall be held to deny or abridge the right to present and have prompt consideration of applications to locate, enter, or select, under the land laws of the United States, lands which have been classified as coal lands with a view of disproving such classification and securing a patent without reservation.

COAL RESERVED—PRIVATE PATENT.

36 Stat. 1349, Chap. 254, March 4, 1911.

An Act Authorizing the Secretary of the Interior to Issue Patent to David Eddington Covering Homestead Entry.

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized and directed to cause patent to issue to David Eddington for the northwest quarter of section 20 in township 5 north, range 5 east, Salt Lake meridian, in the Salt Lake land district, Utah, upon proof of compliance with the homestead laws in the matter of residence and cultivation: Provided, That the patent which shall issue to the said David Eddington shall reserve the coal to the Government under the act of March 3, 1909.

COAL LANDS—SALE—COAL RESERVED.

37 Stat. 105, April 30, 1912.

An Act to Supplement the Act of June 22, 1910 (36 Stat. 583), Entitled "An Act to Provide for Agricultural Entries on Coal Lands."

Be it enacted, etc., That from and after the passage of this act unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands or are valuable for coal shall, in addition to the classes of entries or filings described in the act of Congress, approved June 22, 1910 (36 Stat. 583), entitled "An act to provide for agricultural entries on coal lands," be subject to selection by the several States within whose limits the lands are situate, under grants made by Congress, and to disposition, in the discretion of the Secretary

of the Interior, under the laws providing for the sale of isolated or disconnected tracts of public lands, but there shall be a reservation to the United States of the coal in all such lands so selected or sold and of the right to prospect for, mine, and remove the same in accordance with the provisions of said act of June 22, 1910, and such lands shall be subject to all the conditions and limitations of said act.

**SECTIONS RELATING TO MISCELLANEOUS MINING
SUBJECTS.**

§355, Revised Statutes.

No public money shall be expended upon any site or land purchased by the United States for the purposes of erecting thereon any armory, arsenal, fort, fortification, navy yard, customhouse, lighthouse, or other public building, of any kind whatever, until the written opinion of the Attorney General shall be had in favor of the validity of the title, nor until the consent of the legislature of the State in which the land or site may be, to such purchase, has been given. * * *

§441, Revised Statutes.

The Secretary of the Interior is charged with the supervision of public business relating to the following subjects:

First * * *

Second. The public lands, including mines. * * *

§452, Revised Statutes.

The officers, clerks, and employees in the General Land Office are prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public lands; and any person who violates this section shall forthwith be removed from his office.

§910, Revised Statutes.

No possessory action between persons, in any court of the United States, for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession. (Act February 27, 1865, 13 Stat. 441.)

§1889, Revised Statutes.

The legislative assemblies of the several Territories shall not grant private charters or especial privileges, but they may, by

general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, or the construction or operation of railroads, wagon roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable or scientific association.

§1889, Revised Statutes, Amended.

An Act to Prohibit to Passage of Local Laws in the Territories.

* * * * *

That section 1889 R. S. be amended to read as follows:

"Sec. 1889. The legislative assemblies of the several Territories shall not grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, banking, manufacturing, or other industrial pursuits, or the construction and operation of railroads, wagon roads, canals, or irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable, or scientific association." (Act Mar. 3, 1885, 23 Stat. 348.)

* * * * *

SEC. 5. That section 1889 R. S. be amended to read as follows:

"Sec. 1889. The legislative assemblies of the several Territories shall not grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, and for conducting the business of insurance, banks of discount and deposits (but not of issue) loan, trust, and guarantee associations, and for the construction or operation of railroads, wagon roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable, or scientific association." (Act of July 30, 1886, 24 Stat. 171, 1 Supp. R. S. 503.)

§2238, Revised Statutes.

Registers and receivers, in addition to their salaries, shall be allowed each the following fees and commissions, namely:

* * * * *

Ninth. A fee of \$5 for filing and acting upon each application for patent or adverse claim filed for mineral lands, to be paid by the respective parties.

§2258, Revised Statutes.

5 Stat. 453-455, September 4, 1841.

The following classes of lands, unless otherwise specially provided for by law, shall not be subject to the rights of preemption, to-wit:

* * * * *

Fourth. Lands on which are situated any known salines or mines.

§2275 and 2276, Revised Statutes (as amended).

26 Stat. 796, February 28, 1891.

An Act to Amend Sections 2275 and 2276 R. S. of the United States Providing for the Selection of Lands for Educational Purposes in Lieu of Those Appropriated for Other Purposes.

Be it enacted, etc., That sections 2275 and 2276 R. S. of the United States be amended to read as follows:

"SEC. 2275. Where settlements with a view to preemption or homestead have been, or shall hereafter be made, before the survey of the lands in the field, which are found to have been made on sections 16 or 36, those sections shall be subject to the claims of such settlers; and if such sections, or either of them, have been or shall be granted, reserved or pledged for the use of schools or colleges in the State or Territory in which they lie, other lands of equal acreage are hereby appropriated and granted, and may be selected by said State or Territory, in lieu of such as may be thus taken by preemption or homestead settlers. And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory where sections 16 and 36 are mineral land, or are included within any Indian, military, or other reservation, or are otherwise disposed of by the United States: Provided, Where any State is entitled to said sections 16 and 36, or where said sections are reserved to any Territory, notwithstanding, the same may be mineral land or embraced within a military, Indian, or other reservation, the selection of such lands in lieu thereof by said State or Territory shall be a waiver of its right to said sections. And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory to compensate deficiencies for school purposes, where sections 16 or 36 are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever. And it shall be the duty of the Secretary of the Interior, without awaiting the extension of the public surveys, to ascer

tain and determine, by protraction or otherwise, the number of townships that will be included within such Indian, military, or other reservations, and thereupon the State or Territory shall be entitled to select indemnity lands to the extent of two sections for each of said townships, in lieu of sections 16 and 36 therein; but such selections may not be made within the boundaries of said reservations: Provided, however, That nothing herein contained shall prevent any State or Territory from awaiting the extinguishment of any such military, Indian, or other reservation and the restoration of the lands therein embraced to the public domain and then taking the sections 16 and 36 in place therein; but nothing in this proviso shall be construed as conferring any right not now existing.

"SEC. 2276. That the lands appropriated by the preceding section shall be selected from any unappropriated, surveyed public lands, not mineral in character, within the State or Territory where such losses or deficiencies of school sections occur; and where the selections are to compensate for deficiencies of school lands in fractional townships, such selections shall be made in accordance with the following principles of adjustment, to wit: For each township, or fractional township, containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township, containing a greater quantity of land than one-half, and not more than three-quarters of a township, three-quarters of a section; for a fractional township, containing a greater quantity of land than one-quarter, and not more than one-half of a township, one-half section; and for a fractional township containing a greater quantity of land than one entire section, and not more than one-quarter of a township, one-quarter section of land: Provided, That the States or Territories which are, or shall be entitled to both the sixteenth and thirty-sixth sections in place, shall have the right to select double the amounts named, to compensate for deficiencies of school land in fractional townships." (Act February 28, 1891. 26 Stat. 796.)

§2302, Revised Statutes.

No distinction shall be made in the construction or execution of this chapter on account of race or color; nor shall any mineral lands be liable to entry and settlement under its provisions. (Act June 21, 1866, 14 Stat. 66, p. 67.)

§2362, Revised Statutes.

The Secretary of the Interior is authorized, upon proof being

made, to his satisfaction that any tract of land has been erroneously sold by the United States, so that from any cause the sale can not be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated.

§2369, Revised Statutes.

In every case of the purchaser of public lands, at private sales, having entered at the land office, a tract different from that he intended to purchase, and being desirous of having the error in his entry corrected, he shall make his application for that purpose to the register of the land office; and if it appears from testimony satisfactory to the register and receiver, that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at corners of the tract of land; or that it has in any otherwise arisen from mistake or error of the surveyor, or officers of the land office, the register and receiver shall report the case, with the testimony, and their opinion thereon, to the Secretary of the Interior, who is authorized to direct that the purchaser is at liberty to withdraw the entry so erroneously made, and that the moneys which have been paid shall be applied to the purchase of other lands in the same district, or credited in the payment for other lands which have been purchased at the same office.

§2370, Revised Statutes.

The provisions of the preceding section are declared to extend to all cases where patents have issued or may hereafter issue; upon condition, however, that the party concerned surrenders his patent to the Commissioner of the General Land Office, with a relinquishment of title thereon executed in a form to be prescribed by the Secretary of the Interior.

§2395, Revised Statutes.

* * * * *

Seventh. Every surveyor shall note in his field book the true situations of all mines, salt licks, salt springs, and mill sites which come to his knowledge; all watercourses over which line he runs may pass; and also the quality of the lands.

§2401, Revised Statutes (as amended).

28 Stat. 423, August 20, 1894.

An Act to Amend Section 2401.

“SEC. 2401. When the settlers in any township not mineral or reserved by the Government, or persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof, or when the owners or grantees of public lands of the United States, under any law thereof, desire a survey made of the same under the authority of the surveyor general and shall file an application therefor in writing, and shall deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenditures incident thereto, without cost or claim for indemnity on the United States, it shall be lawful for the surveyor general, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with law, to survey such township or such public lands owned by said grantees of the Government, and make return therefor to the general and proper local land office: Provided, That no application shall be granted unless the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or bases for township and subdivisional surveys.”

§2402, Revised Statutes.

The deposit of money in a proper United States depository, under the provisions of the preceding section, shall be deemed an appropriation of the sums so deposited for the objects contemplated by that section, and the Secretary of the Treasury is authorized to cause the sums so deposited to be placed to the credit of the proper appropriations for the surveying service; but any excesses in such sums over and above the actual cost of the surveys, comprising all expenses incident thereto, for which they were severally deposited, shall be repaid to the depositors, respectively.

§2403, Revised Statutes (as amended).

28 Stat. 423, August 20, 1894.

An Act to Amend Section 2403.

Be it enacted, etc. * * *

SEC. 2. That section 2403 R. S. as heretofore amended is hereby amended so as to read as follows:

“SEC. 2403. Where settlers or owners or grantees of public

lands make deposits in accordance with the provisions of section 2401, as hereby amended, certificates shall be issued for such deposits which may be used by settlers in part payment for the lands settled upon by them, the survey of which is paid for out of such deposits, or said certificates may be assigned by indorsement and may be received by the Government in payment for any public lands of the United States in the States where the surveys were made, entered or to be entered under the laws thereof."

§2406, Revised Statutes.

There shall be no further geological survey by the Government unless authorized by law. The public surveys shall extend over all mineral lands; and all subdividing of surveyed lands into lots less than 160 acres may be done by county and local surveyors at the expense of claimants; but nothing in this section contained shall require the survey of waste or useless lands.

§2449, Revised Statutes.

Where lands have been or may hereafter be granted by any law of Congress to any one of the several States and Territories, and where such law does not convey the fee simple title of the land, or require patents to be issued therefor, the list of such lands which have been or may hereafter be certified by the Commissioner of the General Land Office, under the seal of his office, either as originals or copies of the originals or records shall be regarded as conveying the fee simple of all the lands embraced in such lists that are of the character contemplated by such act of Congress, and intended to be granted thereby; but where lands embraced in such lists are not of the character embraced by such acts of Congress, and are not intended to be granted thereby, the lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title claim, or interest shall be conveyed thereby.

§2450, Revised Statutes.

The Commissioner of the General Land Office is authorized to decide upon principles of equity and justice, as recognized in courts of equity, and in accordance with regulations to be settled by the Secretary of the Interior, the Attorney General, and the Commissioner, cojointly, consistently with such principles, all cases of suspended entries of public lands and of suspended pre-emption land claims, and to adjudge in what cases patents shall issue upon the same.

§2457, Revised Statutes.

The preceding provisions from section 2450 to section 2456, inclusive, shall be applicable to all cases of suspended entries and locations, which have arisen in the General Land Office since the 26th day of June, 1856, as well as to all cases of a similar kind which may hereafter occur, embracing as well locations under bounty-land warrants as ordinary entries or sales, including homestead entries and preemption locations or cases; where the law has been substantially complied with, and the error or informality arose from ignorance, accident, or mistake which is satisfactorily explained; and where the rights of no other claimant or preemptor are prejudiced, or where there is no adverse claim.

§2471, Revised Statutes.

Every person who falsely makes, alters, forges, or counterfeits, or causes or procures to be falsely made, altered, forged, or counterfeited; or willingly aids and assists in the false making, altering, forging, or counterfeiting any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, or title paper, or evidence of right, title, or claim to lands, mines, or minerals in California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, for the purpose of setting up or establishing against the United States any claim, right, or title to lands, mines, or minerals within the State of California, or for the purpose of enabling any person to set up or establish any such claim; and every person, who, for such purpose, utters or publishes as true and genuine any such false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title paper, evidence of right, title, or claim to lands or mines or minerals in the State of California, or any instrument of writing whatever in relation to lands or mines or minerals in the State of California, shall be punishable by imprisonment at hard labor not less than three years and not more than ten years, and by a fine of not more than \$10,000.

§2472, Revised Statutes.

Every person who makes, or causes or procures to be made, or

willingly aids and assists in making any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, or any title paper, or written evidence of right, title, or claim, under Mexican authority, to any lands, mines, or minerals in the State of California, or any instrument of writing in relation to lands or mines or minerals in the State of California, having a false date, or falsely purporting to be made by any Mexican officer or authority prior to the 7th day of July, 1846, for the purpose of setting up or establishing any claim against the United States for lands or mines or minerals within the State of California, or of enabling any person to set up or establish any such claim; and every person who signs his name as governor, secretary, or other public officer acting under Mexican authority, to any instrument of writing falsely purporting to be a grant, concession, or denouncement under Mexican authority and during its existence in California, of lands, mines, or minerals, or falsely purporting to be an informer report, record, confirmation, or other proceeding on an application for a grant, concession, or denouncement under Mexican authority, during its existence in California, of lands, mines, or minerals, shall be punishable as prescribed in the preceding section.

§2473, Revised Statutes.

Every person who, for the purpose of setting up or establishing any claim against the United States to lands, mines, or minerals within the State of California, presents, or causes or procures to be presented, before any court, judge, commission, or commissioner, or other officer of the United States, any false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, diseño, map, expediente or part of an expediente, title paper, or written evidence of right, title, or claim to lands, minerals, or mines in the State of California, knowing the same to be false, forged, altered, or counterfeited, or any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente, or part of an expediente, title paper, or written evidence of right, title, or claim to lands, mines, or minerals in California, knowing the same to be falsely dated; and every person who prosecutes in any court of the United States, by appeal or otherwise, any claim against the United States for lands, mines, or minerals in California, which claim is founded upon, or evidenced by, any petition, certificate,

order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title paper, or written evidence of right, title or claim, which has been forged, altered, counterfeited, or falsely dated, knowing the same to be forged, altered, counterfeited, or falsely dated, shall be punishable as prescribed in section 2471.

§2485, Revised Statutes.

All selections of any portion of the public domain, to which no homestead, preemption or other right had been acquired by any settler under the laws of the United States, and not being mineral land, nor reserved for naval, military or Indian purposes nor held or claimed under any valid Mexican or Spanish grant, and not included within the limits of any city, town or village or of the county of San Francisco, made prior to the 23d day of July, 1866, and theretofore sold to bona-fide purchasers by the State of California, are confirmed to the State of California: Provided, however, That said State shall not receive any greater quantity of land for school or improvement purposes than she is entitled to by law.

§5412, Revised Statutes.

Every person who secretly or fraudulently places, or causes to be placed, in or among the archives of the surveyor general's office in California, any expediente, book, paper, diseño, map, draught, record, or any instrument of writing purporting to be a petition, decree, order, report, concession, grant, confirmation, map, diseño, expediente or part of an expediente, denouncement, title paper, or evidence of right, title, or claim to any land, mine, or mineral, or any book, writing, paper, or document whatever, shall pay a fine of not more than \$5,000, or be imprisoned for a term not more than three years; or be both fined and imprisoned within such limits.

GUANO DEPOSITS ACTS.

§5570, Revised Statutes.

Whenever any citizen of the United States discovers a deposit of guano on any island, rock, or key, not within the lawful jurisdiction of any other Government, and not occupied by the citizens of any other Government, and takes peaceable possession thereof, and occupies the same, such island, rock, or key may, at the discretion of the President, be considered as appertaining to the United States. (Original act. Aug. 18, 1856; (11 Stat. 119.)

§5571, Revised Statutes.

The discoverer shall, as soon as practicable, give notice, verified by affidavit, to the Department of State, of such discovery, occupation, and possession, describing the island, rock, or key, and the latitude and longitude thereof, as near as may be, and showing that such possession was taken in the name of the United States; and shall furnish satisfactory evidence to the State Department that such island, rock, or key was not, at the time of the discovery thereof, or of the taking possession and occupation thereof by the claimants, in the possession or occupation of any other Government or of the citizens of any other Government, before the same shall be considered as appertaining to the United States.

§5572, Revised Statutes.

If the discoverer dies before perfecting proof of discovery or fully complying with the provisions of the preceding section, his widow, heir, executor, or administrator, shall be entitled to the benefits of such discovery, upon complying with the provisions of this title; but nothing herein shall be held to impair any rights of discovery or any assignment by a discoverer heretofore recognized by the United States.

(Amendatory act, April 2, 1872: 17 Stat.. 48.)

§5573, Revised Statutes.

The discoverer, or his assigns, being citizens of the United States, may be allowed, at the pleasure of Congress, the exclusive right of occupying such island, rock, or keys, for the purpose of obtaining guano, and of selling and delivering the same to citizens of the United States, to be used therein, and may be allowed to charge and receive for every ton thereof delivered alongside a vessel, in proper tubs, within reach of ship's tackle, a sum not exceeding \$8 per ton for the best quality, or \$4 for every ton taken while in its native place of deposit.

§5574, Revised Statutes.

No guano shall be taken from any such island, rock, or key, except for the use of the citizens of the United States or of persons resident therein. The discoverer, or his widow, heir, executor, administrator, or assigns, shall enter into bond, in such penalty and with such sureties as may be required by the President, to deliver the guano to citizens of the United States, for the purpose of being used therein, and to none others, and at the price prescribed, and to provide all necessary facilities for that

purpose within a time to be fixed in the bond: and any breach of the provisions thereof shall be deemed a forfeiture of all rights accruing under and by virtue of this title. This section shall, however, be suspended in relation to all persons who have complied with the provisions of this title, for five years from and after the 14th day of July, 1872.

§5575, Revised Statutes.

The introduction of guano from such island, rocks, or keys, shall be regulated as in the coasting trade between different parts of the United States, and the same laws shall govern the vessels concerned therein.

§5576, Revised Statutes.

All acts done and offenses or crimes committed, on any such island, rock, or key, by persons who may land thereon, or in the waters adjacent thereto, shall be deemed committed on the high seas, on board a merchant vessel belonging to the United States; and shall be punished according to the laws of the United States relating to such ships or vessels and offenses on the high seas, which laws for the purpose aforesaid are extended over such islands, rocks, and keys.

§5577, Revised Statutes.

The President is authorized, at his discretion, to employ the land and naval forces of the United States to protect the rights of the discoverer or of his widow, heir, executor, administrator, or assigns.

§5578, Revised Statutes.

Nothing in this title contained shall be construed as obliging the United States to retain possession of the islands, rocks, or keys, after the guano shall have been removed from the same.

17 Stat. 48, April 2, 1872.

ORIGINAL GUANO ACT—AMENDMENT.

An Act to Amend an Act Entitled "An Act to Authorize Protection to be Given to Citizens of the United States Who May Discover Deposits of Guano," Approved August 18, 1856 (11 Stat. 119; R. S. 5570, et seq.)

Be it enacted, etc., That the provisions of the act of Congress approved August 18, 1856, entitled "An act to authorize protection to be given to citizens of the United States who may discover deposits of guano," be, and the same are hereby, extended

to the widow, heirs, executors, or administrators of such discoverer, where such discoverer shall have died before perfecting proof of discovery or fully complying with the provisions of said act approved as aforesaid, after complying with the requirements of the act of Congress of August 18, 1865: Provided, That nothing herein contained shall be held to impair any rights of discovery or any assignment by a discoverer heretofore recognized by the Government of the United States.

SEC. 2. That section 3 of an act approved July 28, 1866 (14 Stat. 328), entitled "An act to protect the revenue, and for other purposes, amendatory of the act aforesaid, approved August 18, 1856, be, and the same is hereby, amended by striking out the word "five," wherever the same occurs, and inserting in lieu thereof the word "ten."

§5595, Revised Statutes.

The foregoing 73 titles embrace the statutes of the United States, general and permanent in their nature, in force on the 1st day of December, 1873, as revised and consolidated by commissioners appointed under an act of Congress, and the same shall be designated and cited, as the Revised Statutes of the United States.

§5596, Revised Statutes.

All acts of Congress passed prior to said 1st day of December, 1873, any portion of which is embraced in any section of said revision, are hereby repealed, and the section applicable thereto shall be in force in lieu thereof; all parts of such acts not contained in such revision, having been repealed or superseded by subsequent acts, or not being general or permanent in their nature: Provided, That the incorporation in the said revision of any general and permanent provision, taken from an act making appropriations, or from an act containing other provisions of a private, local, or temporary character, shall not repeal, or in any way affect any appropriation, or any provision of a private, local or temporary character contained in any of said acts, but the same shall remain in force; and all acts of Congress passed prior to said last-named day no part of which are embraced in said revision, shall not be affected or changed by its enactment.

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